

STAFF REPORT

TO THE

SUNSET ADVISORY COMMISSION

ON THE



TEXAS RACING COMMISSION

EQUINE RESEARCH ACCOUNT ADVISORY COMMITTEE

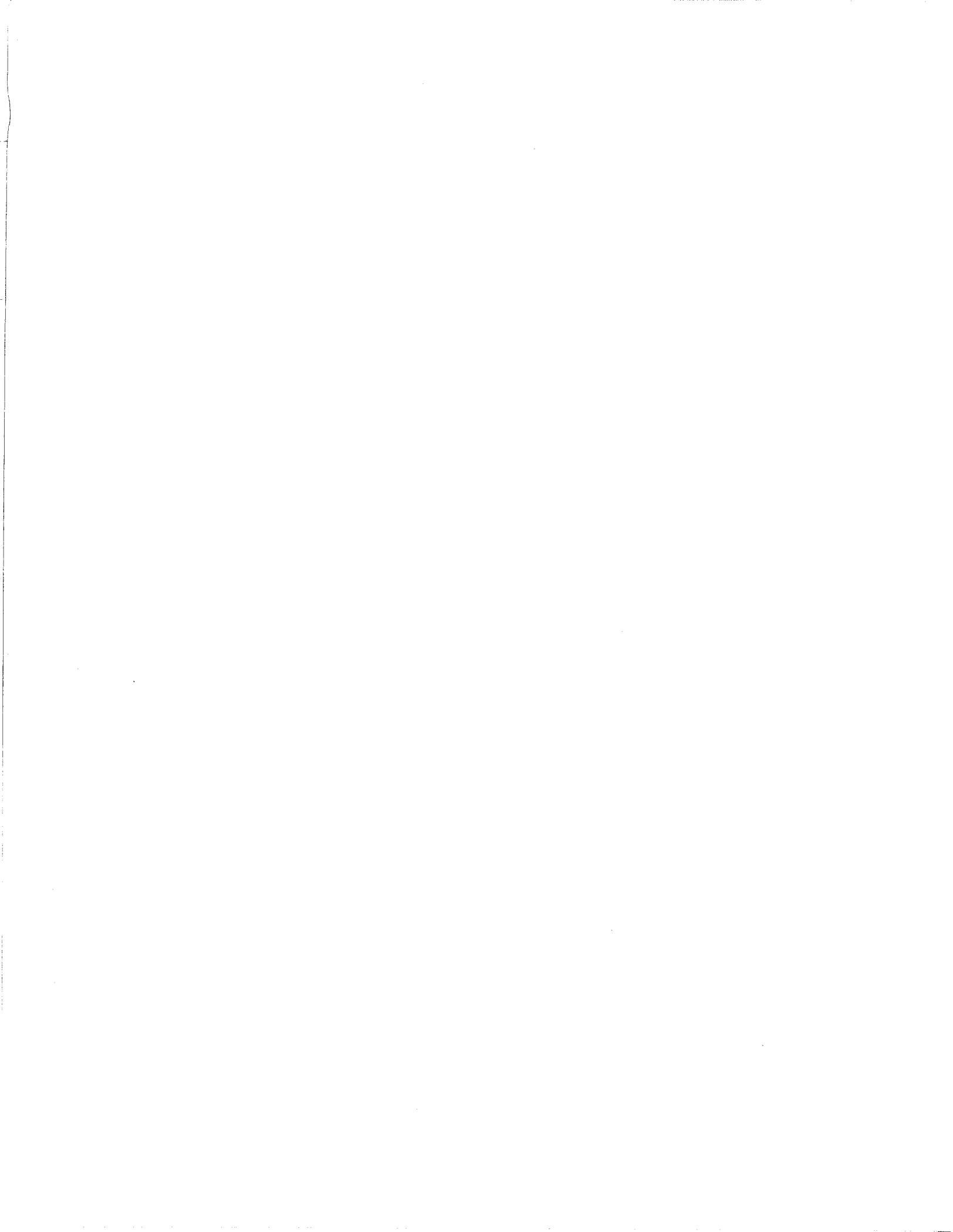
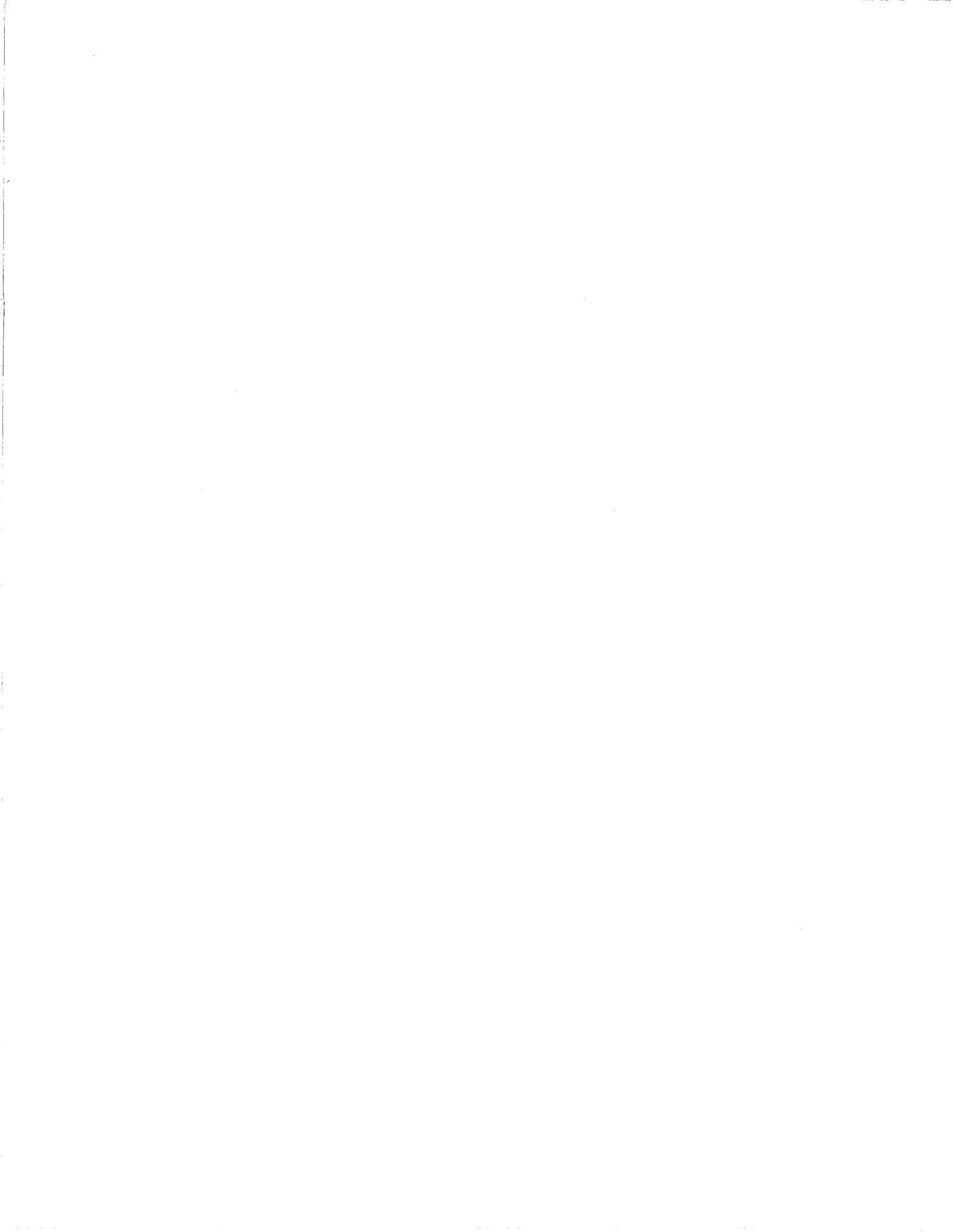


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EXECUTIVE SUMMARY

APPROACH

In 1987, the citizens of Texas voted to approve pari-mutuel racing. The public accepted legalized gambling at the racetrack with the understanding that the industry would be closely regulated and that it would improve the state's economic forecast, particularly in the agricultural segment of the economy. In the original legislation, lawmakers established the Texas Racing Commission to ensure fair wagering and safe racing, and to help the industry grow as an asset to the state's economy.

Development of the industry has been slower than expected. The Racing Commission members were not appointed until April 1989. Several track licenses were delayed by protracted litigation. The state lottery began competing for wagering dollars in 1991. Although the four major horse tracks authorized by the bill have all been licensed, only two are yet operating. Therefore, the first five years of racing have not delivered the economic expansion and revenues that were predicted by supporters of pari-mutuel.

In 1991, the Legislature revised the Texas Racing Act to further encourage industry growth. The

changes included a reduction in the pari-mutuel tax rate and authorization of simulcast races which served as industry incentives. These changes have helped the industry expand. One major horse track opened this year and another is expected to open early in 1995.

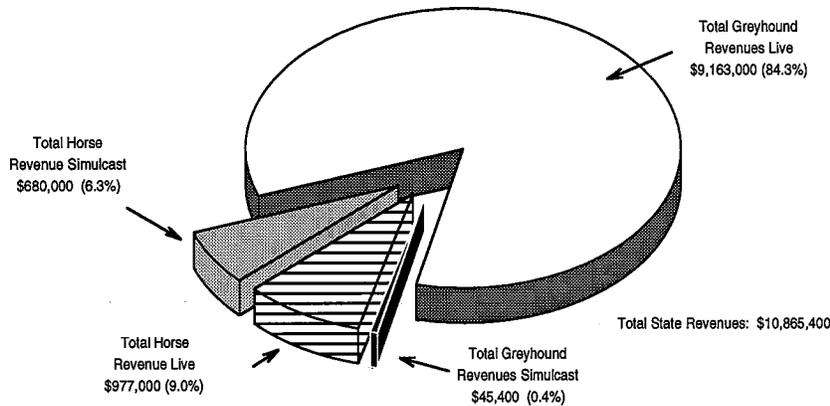
Racing revenues are shown in the chart, *Total State Revenues by Source - Calendar 1993*. Although the racing industry's contribution has increased over the past two years, it represents a very small portion of the tax money collected by the state.

Since pari-mutuel racing is still evolving, it may be too soon to judge its role in a diverse sporting and entertainment industry. With proposals to legalize casino gambling coming up in the 74th Legislative Session, and with continuing competition from the state lottery, growth of pari-mutuel racing will be a challenge in the coming years.

As the racing industry emerges, it is important that TxRC is equipped to regulate fairly and efficiently. As a regulatory agency, the best contribution TxRC can make is to ensure that the public is protected when

Development of the industry has been slower than expected due to delays in appointments to TxRC and litigation over racetrack licenses.

Total State Revenues by Source - Calendar 1993



placing bets and that race animals are properly treated. Effective state regulation should help foster success and growth in the pari-mutuel racing industry by increasing the public's confidence when they wager at the track. Consequently, the need for quality regulation was the focus of the Sunset review.

CONDUCT OF THE REVIEW

In conducting the review, the Sunset staff:

- Worked with TxRC staff, DPS staff, Comptroller's Office staff, and attended public meetings of the Texas Racing Commission;
- Met with representatives of the breeding and racing industry;
- Toured various racetrack facilities under construction and currently operating;
- Reviewed agency documents and reports, state statutes,

legislative reports, previous legislation, literature on the racing industry, research studies and reports on the gaming industry, and other states' information;

- Surveyed other states to compare key aspects of their racing regulation to those in Texas;
- Surveyed other states to compare the costs of laboratory fees for animal drug testing; and
- Reviewed the purpose, composition, and results of the Equine Research Account Advisory Committee.

RESULTS

The purpose of TxRC is to ensure the safety of race animals and also to make sure that when a member of the public places a bet at the track, he or she has a fair chance to win.

The Sunset review looked at ways to improve the state's oversight of the racing industry. First, the agency's organizational structure was evaluated. Staff reviewed the option to consolidate TxRC with other agencies into a gaming commission.

Since Texas has three forms of gambling — bingo, racing, and lottery — and some other states have gaming agencies that regulate multiple types of gambling, this organizational alternative was

The need for quality regulation was the focus of the Sunset review.

carefully considered. The review concluded that:

- Regulating pari-mutuel racing is substantially different from regulating charity bingo or operating a state lottery.
 - The Racing Commission must deal with unique issues including animal health, drug testing, occupational licensing, criminal law enforcement, agribusiness, and oversight of racetrack construction and safety.
 - If casino gambling is approved, the state will become involved in substantially different regulatory activities than those associated with racetrack operations.
 - Although racing is state regulated, it is a private industry. The lottery, on the other hand, is state-owned and state-run. The Racing Commission must balance the interests of the track associations, horsemen, occupational licensees, owners, breeders, and trainers. TxRC specializes in policies related to pari-mutuel, race animal welfare, and racetrack operation.
- Consolidating the Racing Commission and other gaming agencies into a single gaming

commission would not result in significant savings for the state at this time.

- The Texas Performance Review estimated savings of about \$200,000 from consolidation.

Staff reviewed other agency functions including potential overlap with the Department of Public Safety, the Texas Animal Health Commission and the Comptroller's Office. No duplication of effort was found with any of these agencies.

In developing the focus for the review, staff examined proposals and questions related to further development of the industry. The issues listed below were considered.

- Should off-track betting (OTB) be authorized?
- Should the minimum age for wagering at a pari-mutuel racetrack be lowered?
- Should automatic teller machines be permitted on the grounds of pari-mutuel racetracks?
- Should the number and location of greyhound tracks be expanded?
- Should pari-mutuel racetracks be permitted to have video lottery terminals?

Consolidating the Racing Commission and other gaming agencies into a single gaming commission would not result in significant savings to the state at this time.

Make the top regulatory officials at each track directly responsible to the state.

Although these proposals might expand the industry, they represent significant changes to state gambling policy outside the scope of the Racing Commission review.

In examining TxRC's ability to effectively regulate pari-mutuel racing, the review focused on the Commission itself to determine if state racing policy is based on consistent standards and business expertise. The review concentrated on the agency role in helping the industry grow while scrutinizing the agency's ability to gain racetrack compliance with state regulations through racing officials, track inspections and enforcement actions. Sunset staff also looked closely at statutorily authorized allocations of the wagering pool which distribute significant sums of money as industry incentives.

The review also examined the state's approach to operating and funding an equine research program. In particular, the staff examined TxRC's role in the program, the impact of the use of equine research funds and the structure of the committee.

As a result of the Sunset review activities described above, the staff recommends the following changes to the agency's statute to improve the oversight of the racing industry and the equine research program.

RECOMMENDATIONS

Texas Racing Commission

1. **Prescribe public membership on the Commission and improve the operating structure.**
2. **Focus Racing Commission activities on regulation of the industry, not promotion.**
3. **Improve TxRC's racetrack inspection and enforcement activities.**
4. **Increase Texas Racing Commission oversight of programs funded through provisions of the Texas Racing Act.**
5. **Improve the integrity and safety of pari-mutuel racing by making the top regulatory officials at each track directly responsible to the state.**
6. **Authorize the Texas Racing Commission to recover costs of criminal history reports.**
7. **Continue the Texas Racing Commission for six years to oversee pari-mutuel racing in Texas.**

Equine Research Account Advisory Committee (ERAAC)

1. **Remove potential conflicts of interest from the Equine Research Account Advisory Committee process.**
2. **Continue the Equine Research Account Advisory Com-**

mittee and strengthen connections to the Texas Racing Commission.

Fiscal Impact

The recommendation for criminal history checks associated with licensing of racing industry employees will result in a gain to the state of \$557,000 for the next biennium. The funds collected

will eventually be transferred to DPS so that funds currently used by the Department for TxRC crime record searches can be used for other public safety purposes including highway safety and fighting crime.

Other recommendations in this report that require additional personnel costs for the agency will be covered by fee revenue and will have no fiscal impact to the state.

Fiscal Year	Gain to Texas Racing Commission Fund for Transfer to DPS
1996	\$257,000
1997	\$300,000
1998	\$274,000
1999	\$306,000
2000	\$406,000

ISSUE 1



PRESCRIBE PUBLIC MEMBERSHIP ON THE COMMISSION AND IMPROVE THE OPERATING STRUCTURE.

BACKGROUND

The Texas Racing Commission (TxRC) is an eight-member board. The Governor appoints six members with the consent of the Senate, and two members serve in an *ex officio*, voting capacity. The appointed members serve staggered six-year terms, and the *ex officio* members serve as long as they hold their other offices. The Governor designates the presiding officer.

Two of the appointed members must be veterinarians—one who specializes in treating small animals and another who specializes in large animals.

Of the remaining appointed members, two must have knowledge or experience in greyhound racing and two must have knowledge or experience in horse racing. The two *ex officio* members are the State Comptroller and the chair of the Texas Public Safety Commission.

The Commission is divided into two sections that deal separately with greyhound and horse racing matters. Two appointed members

with greyhound racing experience and the small-animal veterinarian make up the greyhound section, and the two members with horse racing experience and the large-animal veterinarian make up the horse section. The two *ex officio* members sit on both sections.

This structure divides the Commission into three decision-making bodies. On matters that apply to both horse and greyhound racing, the Commission acts as a single body. On matters that relate primarily to horse or greyhound racing but not the other, the Commission acts as two separate sections. Consequently, the Commission adopts rules and takes regulatory action without a full member vote.

The Commission must meet at least six times a year. On the average, the full Commission meets nine times a year, while the horse and greyhound sections meet separately about once a year. In fiscal year 1993, the Commission met seven times as a single body, and the horse section met twice by itself. The greyhound

The Commission is divided into two sections that deal separately with greyhound and horse racing matters.

section did not meet independently during fiscal year 1993.

The review focused on the effectiveness of a structure that separates the Commission into three decision-making bodies as well as the need for particular types of experience on the Commission.

FINDINGS

▼ **Dividing the Commission into separately acting sections no longer serves a valid purpose.**

▶ With racetrack licensing largely over, the original reason for separating the Commission into two sections—to balance the competing interests of the horse and greyhound industries—no longer applies.

▶ The Commission's initial duty in determining racetrack locations has been completed. The Racing Act limits the number and location of greyhound and Class 1 horse racetracks, and prevents the Commission from creating competition between them in the same county.

▶ The only greyhound and horse racetracks that could possibly be in competition with each other—the greyhound track in Galveston County and the Class 1 horse track in Harris County—are

already licensed and operating.

Persons in the racing industry have pointed to the Commission's decisions as to when the tracks may run their races as another potential area of conflict between horse and greyhound racing.

The Racing Act, however, guarantees that greyhound racing licensees may race virtually year round, so allocation of greyhound race dates is not an issue the Commission could decide to any horse track's detriment.

▶ Simulcast race days are not a source of conflict between greyhound and horse racing because the statute prohibits greyhound racetracks from receiving simulcasts of horse races, and vice-versa.

▶ For both greyhound and horse racing, the statute establishes the takeout—that is, the portions of the total amount wagered dedicated to the purses, breed registries, state tax, and racetracks. The Commission cannot affect the income of the participants in either the greyhound or horse racing industry by changing the takeout structure.

▼ **No other state regulatory board or commission is**

With racetrack licensing largely over, the original reason for separating the Commission into two sections no longer applies.

divided into separate sections.

▶ Although boards often use subcommittees to perform their work, the entire board generally makes final decisions based on the work of the subcommittees.

▶ In comparison to TxRC, several boards have divergent responsibilities, yet they still take action as a single unit.

- The Texas Animal Health Commission, composed of 12 members, is responsible for enforcing health standards for both traditional and exotic livestock. The regulatory efforts in these two areas are often quite different. However, that commission does not break into separate sections to make decisions in their different areas of responsibility.

- The Texas Parks and Wildlife Commission, made up of nine members, regulates varying areas of responsibility including state parks, historical sites, hunting, and fishing. Nevertheless, the commission is not divided among its various duties for the purpose of taking final actions.

- The Texas Board of Health, with six members, oversees diverse health-care programs, facilities, and

providers but is not partitioned into separate decision-making bodies.

▼ **The divided structure of the Commission has proven to be problematic.**

▶ The full Commission does not participate in facility licensing decisions. Each section consists of three appointed members and the two *ex officio* members or five in all. Three members of a section constitute a quorum. Consequently, two members out of an eight-member board could decide matters affecting a racetrack license worth millions of dollars.

▶ Three of the most important and controversial matters to come before the Commission were decided by section vote. These included the licensing of the Class 1 horse racetracks in the Dallas-Fort Worth and Houston areas and the licensing of the greyhound racetrack in Galveston County. Applications for these licenses resulted in hotly contested administrative hearings and numerous lawsuits.

Despite the need for full participation by all the commissioners, the two sections considered the greyhound and horse racetrack licenses separately, without the benefit

No other regulatory board or commission in Texas divides into separate sections to make policy decisions.

The separate panels have created inconsistent rules regarding simulcasting and involvement of industry representatives.

of all the members' experience and knowledge. The presiding officer of the whole Commission could not participate in the licensing proceedings for the Dallas-Fort Worth area Class 1 horse track because she was appointed to the greyhound section.

Although facility licensing activities of the TxRC are largely completed, additional matters regarding the regulation and viability of those tracks will continue to come before the TxRC.

▶ The separate panels have created inconsistent rules regarding simulcasting and involvement of industry representatives.

The horse section has adopted a rule setting minimum purses for simulcast races at the same level as purses for live races, but the greyhound section has not. Instead, minimum purses for simulcast greyhound races are set in contracts between the kennel operators and greyhound racetrack operators, with the approval of the greyhound section.

The horse section has also adopted rules requiring racetrack operators to negotiate with the official representative of horse owners and

trainers on all simulcasting matters. The greyhound section, however, has not adopted a similar rule.

▼ **Other states' racing commissions do not split into separate panels representing horse and greyhound racing.**

▶ A survey of the 19 pari-mutuel wagering states that authorize both horse and greyhound racing indicates that none divides its commission into separate panels.

▼ **The general public is not fully represented on the Commission.**

▶ All the appointed commissioners must either have knowledge or experience in pari-mutuel racing or be a licensed veterinarian.

▶ Although the two *ex officio* members act in the interests of the general public, they serve on the Commission to fill specific needs related to the oversight of pari-mutuel revenue and public safety concerns.

▼ **The lack of public members on the Commission is inconsistent with the Sunset Commission's across-the-board approach to require one-third public member-**

ship on state boards and commissions.

• The review could not identify any substantial reasons why the standard Sunset approach should not apply.

• Most other Texas state boards and commissions have public membership. Of 105 state boards and commissions analyzed, 77, or 73.3 percent, required some public membership. One-quarter of those bodies required all or a majority of their members to represent the general public.

▼ **Previous knowledge or experience in greyhound or horse racing or veterinary practice is not necessary to perform the Commission's regulatory duties.**

• Major duties such as rulemaking, allocating race days, and hearing appeals of disciplinary actions against licensees do not require racing experience or veterinary experience to make sound and fair decisions in the best interest of racing and the public.

The Commission has already promulgated the basic rules that the industry operates under, including rules regarding the safety of race animals.

Staff, in consultation with industry representatives, can provide the technical expertise that may be needed to fine tune the rules. For example, TxRC employs 12 licensed veterinarians.

In reviewing appeals of disciplinary actions, the main qualification should be impartiality, not affiliation with the industry being regulated.

• Experience in a particular industry being regulated is not usually required to serve on a regulatory board.

• The Texas Natural Resource Conservation Commission regulates air and water quality, water utility rates, and hazardous-waste disposal. Despite having duties in these complex areas, that commission is made up entirely of public members.

• The Texas Public Utilities Commission deals with highly technical matters in regulating electric and telephone utility rates. Yet, only public members serve on that body.

▼ **Other states provide public membership on their racing commissions.**

• Out of 14 major and neighboring pari-mutuel racing states surveyed, all but two require public member-

The main qualification should be impartiality, not affiliation with the industry being regulated.

ship on their racing commissions. Nine of those states require all or a majority of their members to represent the general public, without having specialized expertise or knowledge.

CONCLUSION

The present structure of the Texas Racing Commission is flawed. Overall, the Commission is structured to provide an opportunity for input by the regulated community. However, the standard approach in the state is to

provide expertise on boards and commissions only when necessary for decision making—not to allow for representation of regulated interests.

This flawed structure is aggravated by allowing the Commission to make decisions through separate sections that exclude some members of the Commission. With racetrack licensing largely finished, the reasons for regulating racing under this unusual structure no longer pertain.

Recommendations

Changes in Statute

- **Modify the composition of the Commission to include six public members who have general knowledge of business or agribusiness (retaining the two *ex officio* members).**
- **Remove existing requirements for the Commission to operate through separately acting sections representing horse and greyhound racing.**

Management Action

- **The Commission should work with a broad range of industry representatives during the development and review of rules and any other matters where outside expertise and early input would be helpful.**

This recommendation would change the Commission's membership to six public members, the Comptroller of Public Accounts, and the chair of the Texas Public Safety Commission. This approach would delete the requirements that four commissioners have knowledge or experience

particularly related to greyhound or horse racing and that two commissioners be veterinarians. Appointment of public members would not exclude persons with backgrounds in racing or veterinary practice from serving on the Commission, as long as they do not violate the usual conflict of interest provisions. The whole Commission would make

all decisions related to the regulation of pari-mutuel racing in Texas.

Concern has been expressed that the regulation of pari-mutuel racing is a complex area requiring special expertise. Yet, other pari-mutuel racing states have found public membership to be an asset in a rapidly changing industry. A commissioner who owns horses or raises greyhounds is not necessarily the person best equipped to deal with interstate simulcasting arrangements or intricate racetrack financing schemes.

When special expertise in the racing industry is needed, the Commission can rely on both its professional staff and the expertise available within the racing community. In addition, the 12 veterinarians on the Commission's staff will be available to provide input as needed. These veterinarians work with race animals on a day-to-day basis.

This recommendation would provide more uniform policymaking by the Commission. Instead of adopting divergent rules for horse and greyhound racing, a unified Commission would provide consistent regulation for the racing industry in Texas as a whole. Under the recommended approach, current members would be allowed to serve out their terms. Based on the current membership of the Commission, the terms of one horse section member and one greyhound section member will expire at the same time, thereby avoiding an imbalance between horse and greyhound members during the transition. TxRC veterinarians will continue to provide expert medical opinions to the Commission on animal health and safety issues.

FISCAL IMPACT

This recommendation would not have a fiscal impact to the state.

ISSUE 2



FOCUS RACING COMMISSION ACTIVITIES ON REGULATION OF THE INDUSTRY, NOT PROMOTION.

BACKGROUND

The Legislature created the Texas Racing Commission to regulate the pari-mutuel industry and at the same time to improve the state's economy. The Racing Act states that one of the purposes of the Act is to increase agricultural development and expand the economy through increased jobs and tourism.

State government has often played a role in helping industries get started and develop markets. Helping businesses start and grow profitably helps build the state's economic base and creates jobs for Texans.

Two agencies in Texas are responsible for promoting and marketing industries. The Texas Department of Commerce (Commerce) is the state's lead agency for economic development. With the exception of agriculture, which is promoted by the Texas Department of Agriculture (TDA), Commerce works with all industries in Texas.

TxRC is not directly involved in promoting the racing industry at this time. However, the Racing Act generally states that the intent

of legalizing the pari-mutuel industry was to help agricultural development and expand the economy. As a result, members of the racing industry have voiced interest in having the agency directly promote the industry.

This review examined the development of the racing industry in Texas to determine what role state government should have in promoting consumer participation in racing. The review also examined the importance of separating the roles of regulation from promotion.

FINDINGS

▼ **State economic development was a goal of the Legislature in adopting the Texas Racing Act.**

► The Legislature set out the following purpose in adopting the Texas Racing Act: "to encourage agriculture, the horse-breeding industry, the horse-racing industry, the greyhound breeding industry, tourism, and employment opportunities in the state related to (racing) and provide for strict regulation and

The Legislature created the Texas Racing Commission to both regulate the pari-mutuel industry and improve the state's economy.

control of pari-mutuel wagering in connection with that racing.”

▼ **When the Legislature wants specific marketing programs to help industries, it provides specific statutory direction to do so.**

► The Texas Racing Act presently contains no specific authority or program direction to operate promotional efforts.

► TxRC's original enabling legislation provided for a small portion of wagers to be used by an approved organization to promote interest in horse racing and to encourage research, promotion, and discussion of methods related to racing, breeding, and marketing of racehorses. Agency staff indicated that the racing industry could not agree on an organization to perform these activities. This provision was removed from statute in a 1991 revision of the Racing Act.

► Financially struggling racetracks, competition from the state lottery, and proposals for casino gambling have caused TxRC to closely review its statutory responsibilities to determine if marketing and promotion are part of its responsibilities as outlined

by the Legislature. The Racing Act includes general references to TxRC promotion and encouragement of the industry, but nothing specifically authorizes a promotional effort by the agency.

▼ **The TxRC's planning and budget documents show the agency's intent to become involved in promotion of the racing industry.**

► The TxRC has addressed the issue of promotion in its strategic plan and Legislative Appropriation Request (LAR). In its strategic plan, TxRC measures performance by the percentage increase in attendance and wagering at the racetrack. Both are measures of expansion of the industry instead of the agency's ability to effectively regulate the industry.

► The agency requested funds in the LAR to implement a public information program to increase public confidence in the industry. Again, this would be considered a promotional activity as opposed to a regulatory one.

▼ **State laws generally separate the functions of promoting and regulating an industry.**

► Regulatory and promotional roles are usually sepa-

rated by agency boundaries. For example, the Texas wine industry is regulated by the Texas Alcoholic Beverage Commission while Commerce and TDA promote the industry.

▼ **While the state's efforts to promote and develop business are generally divided between Commerce and TDA, neither agency is clearly responsible for development of the racing industry.**

► Racing as an industry could be defined as agricultural but is primarily tourism and business development.

► Discussions with Commerce staff indicate that Commerce has provided some services to racetracks and could assume additional duties for racetrack promotion. In 1994, Commerce administered a \$10.2 million Texas tourism promotion campaign funded by dedicated hotel/motel tax revenue.

CONCLUSION

The Legislature and the public authorized pari-mutuel racing to expand the economy and generate additional tax revenue. However, the racing industry has not met original projections for attendance and the revenues that patrons bring. As a result, TxRC has moved towards beginning some efforts to promote the racing industry.

However, the Legislature does not generally direct an agency to be both regulatory and promotional to avoid blurring the responsibilities of protecting the public with those of helping the industry.

Instead, the Legislature generally relies on Commerce and TDA to develop markets and promote industries. However, neither Commerce nor TDA have been assigned any responsibility for development of the racing industry.

Having both regulatory and promotional duties can blur the responsibilities of protecting the public versus helping the industry.

Recommendations

Changes in Statute

- **Clarify that the Texas Racing Commission is not responsible for promoting the racing industry.**
- **Direct the Commerce Department to assume responsibility for the promotion of racing if the Legislature authorizes economic development funds for this purpose.**

This recommendation would remove provisions in the Racing Act that can be interpreted to place TxRC in the position of both regulating and promoting the racing industry. If, at some time in the future, the Legislature determines that a portion of racing-related funds should be used for promoting the industry, Commerce would become involved depending on the type of promotional activity desired.

FISCAL IMPACT

This recommendation would not result in a fiscal impact to the state.

ISSUE 3



IMPROVE TxRC'S RACETRACK INSPECTION AND ENFORCEMENT ACTIVITIES.

BACKGROUND

Since 1987, the Texas Racing Commission has issued licenses for three greyhound tracks and twelve horse tracks. All of the greyhound tracks are operational. Five of the horse tracks are operational, one is under construction and two are actively planning construction. The remaining four tracks either went out of business or never opened.

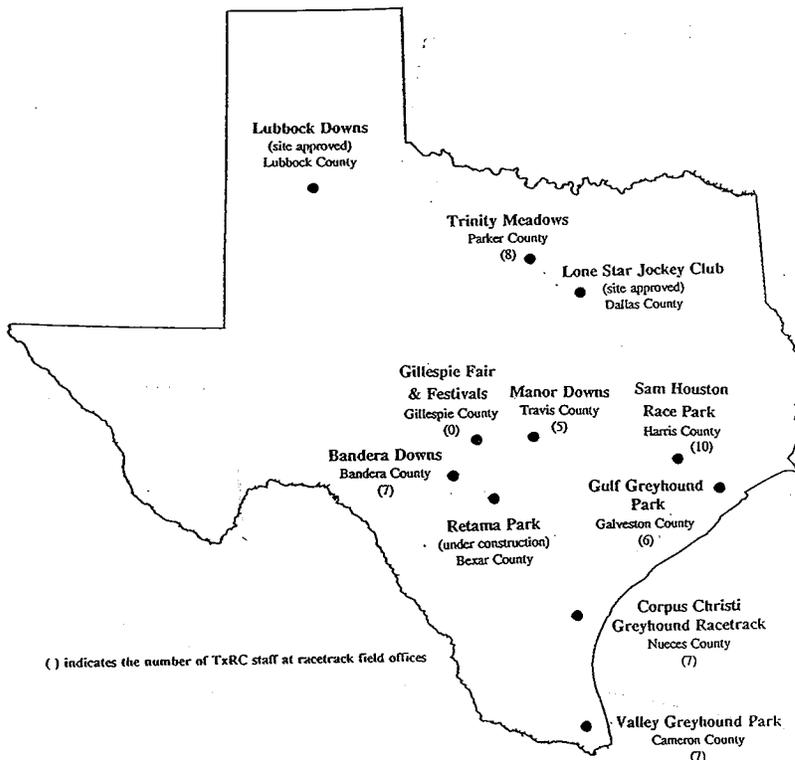
At the start of the licensing process, license applicants submit plans that describe the site, racetrack, public areas, utilities, and facilities for animals and people. The Commission has established minimum standards for design and construction of racetrack facilities.

After issuing the licenses, the Commission oversees actual construction of the tracks. TxRC oversight of track construction falls into two categories — approval of plan changes after construction begins and inspection of on-going construction. Having learned from overseeing the first tracks built, the enforcement staff is now performing more frequently scheduled inspections during construction, but there is no

consistent method of overseeing track construction.

TxRC enforcement staff investigators are currently responsible for conducting ongoing compliance inspections. The investigators conduct one broad inspection before a track opens and then usually before the start of each racing meet. These inspections check items ranging from the public address system, photofinish equipment, and lighting to track security, track length, and racing surface.

The executive secretary attempts to gain racetrack compliance by persistent contact and commissioner involvement.



Without prior approval, the view from the stewards booth at Sam Houston Race Park was compromised to accommodate a private suite next door.

Individual investigators or the director of enforcement write up, in memo form, the results of construction-phase and ongoing compliance inspections. Then, the executive secretary sends letters to the racetrack requesting corrective action. When problems arise, the executive secretary attempts to gain compliance by persistent contact with the racetrack and occasional commissioner involvement.

If compliance problems continue, TxRC is authorized to suspend or revoke a racetrack license or impose administrative penalties up to \$10,000 for failure to comply with the Act or Commission rules, including standards for construction and proper operation of tracks.

The following material illustrates three problem areas concerning oversight of the construction and operation of the state's pari-mutuel tracks. The three areas are:

- Oversight of the track construction process
- Inspection and monitoring of track facilities and operations
- Enforcement authority to achieve quick compliance when problems are found.

FINDINGS

- ▼ Neither the Act nor TxRC rules require monitoring of

construction and improvements.

- The agency has some oversight as a result of the broad authority provided in the Racing Act to generally oversee racing and racetracks. TxRC enforcement staff make periodic inspections of new construction sites, but the Act and the Commission's rules offer no facility inspection standards. The only related Commission rule requires the state or local fire marshal to certify the track prior to its first racing meet.

- Changes to racetrack plans and construction have been handled in a variety of ways. In some cases, Commissioners met in ad hoc subcommittees to consider allowing exemptions from the TxRC racetrack requirements.

This has occurred without benefit of a structured procedure to receive and review standard inspection reports with formal staff recommendations concerning the changes. In other instances, the executive secretary has approved plan changes.

- ▼ TxRC staff experienced significant problems with inspection and compliance during the construction

phase of the Sam Houston Race Park.

► Actual construction of Sam Houston Race Park differed significantly from the original plans. According to the TxRC staff, in some cases, changes made from the original plans resulted in less satisfactory design and construction than had been agreed to under the original agreements of the racetrack license.

For example, without prior approval, the stewards' booth at Sam Houston Race Park was significantly reduced in size to accommodate the enlargement of a private suite next door. This resulted in a restricted view of the racetrack by the stewards. At the request of the agency, the racetrack took corrective action, but the view remains compromised.

Sam Houston Race Park built 10 by 10 foot residences for stable area workers intended to house four people each.

After construction, TxRC staff found the residences lacked air conditioners and insisted that the racetrack association correct the situation. In this case, the racetrack complied.

TxRC staff requested improved drainage in the test barn and stable areas of Sam

Houston Race Park. The racetrack installed above-ground, plastic drainage pipes, which is an uncommon and less-than-satisfactory approach. The agency recommended moving the pipes underground, but the racetrack has not yet complied. The TxRC has taken no action to force the track to meet this requirement.

▼ **The Act provides no direction for ongoing inspection of racetracks.**

► In terms of ongoing compliance inspections, TxRC is authorized, but not required, to inspect and verify that horse track racing surfaces meet standards. The racetrack surface for greyhounds is subject to periodic inspections, but again the inspections are not required. The rules only require inspections at greyhound tracks for starting boxes and kennels. Only the results of the kennel inspections must be reported.

▼ **The agency's approach to inspection of racetrack facilities does not meet generally accepted standards for inspection programs.**

► A review of the agency's procedures revealed that TxRC does not have staff

Comparison of TxRC Inspection Efforts to Standard Programs	
Weaknesses Identified	Standard Inspection Program
Lack of staff dedicated to the inspection function.	Staff inspectors focus exclusively on inspections and visit job sites frequently.
Sporadic inspection schedule.	Inspections are typically conducted on a standard schedule. For construction projects, every 30 days with occasional unscheduled inspections. For compliance inspections, a fixed schedule is established according to facility operations and need for oversight.
Lack of systematic inspection checklists.	Inspection checklists are designed and distributed to all parties for pre-construction, actual construction, post-construction, and operational stages.
Lack of standardized inspection reports.	Structured inspection reports with a standard format are used from project to project to assist in the supervision and monitoring of projects.
Failure to define the scope and level of detail for inspections.	Scope and level of detail in facility inspection reports determined by project documentation and physical plant. Standard documentation compiled by the facility for inspector review is recommended. Items usually include correspondence, contracts, permits, drawings, planning documents, payment requests, daily construction inspection reports and fiscal records. These items help standardize the level of detail sought during inspections.
Lack of well-documented central files.	Central inspection files for each project are compiled by inspectors and reviewed by supervisory staff. Files typically contain building specifications and plans, standard inspection reports, photographs, copies of selected contracts, and correspondence with facilities and relevant parties.
Lack of regular notification for change-orders during construction of the race-tracks.	Change-order requests are submitted to inspectors within a designated time period for agency approval or comment.
Lack of regular reporting to the agency and Commission on inspection results.	Inspectors submit weekly/bi-weekly reports on problems identified. Information is compiled into monthly reports for management and policymakers. Some state agencies include regular compliance reports and updates on board or commission agendas.

specifically dedicated to conducting compliance inspections. The enforcement staff investigators conduct facility inspections in addition to their standard investigative work.

The investigators' primary responsibility is to investigate areas such as race animal drug positives, illegal wagering, ticket fraud, and contraband such as narcotics, weapons, hypodermic needles, and electrical shocking devices.

Stewards and judges at the racetracks also inspect facilities but do not do so on a routine basis or in accordance with any standard method. Stewards and judges efforts are focused mainly on occupational licensees' compliance with state regulations.

■ The review also showed that TxRC lacks many other standard elements found in other state agencies' inspection and compliance programs. These elements include timely inspections, standardized reporting, and notices of violation. A comparison of TxRC's inspection activities to other agencies is provided in the chart, *A Comparison of TxRC Inspection Efforts to Standard Programs*.

▼ **TxRC has not adequately used its existing enforcement authority to ensure race-track compliance with the Act or rules.**

► Numerous significant problems have been discovered, documented, and communicated to the tracks by agency staff. However, the Commission has taken only one action of record against a racetrack for violating TxRC rules and that was for false advertising. In this instance, the Commission ordered a \$10,000 probated penalty against the track and did not collect the fine. The Commission has not suspended or revoked a racetrack license or collected an administrative fine for noncompliance with state regulations.

► For example, since opening in 1990, the Commission has received numerous complaints about the condition of the backstretch area of Manor Downs where stalls and barn areas are located. The complaints deal with drainage; weed control; trash and muck disposal; fire alarms; and the condition of fences, barns, and roofs. TxRC continues to request that Manor Downs take action, but the problems persist.

► In 1991, rain flooded the track surface at Trinity Meadows and drainage proved inadequate. TxRC considered the situation a threat to the safety of the jockeys and horses. Agency staff considered prohibiting the stewards from attending work to keep the track from operating, rather than using their administrative penalty authority. However, the track voluntarily closed after the Jockey Guild refused to race until the problem subsided. Track surface and drainage continue to be a problem at Trinity Meadows.

▼ **The agency lacks an effective enforcement tool to achieve quick resolution of problems.**

► When problems occur that could impact the safety or fairness of the races, an administrative penalty or suspension of a license takes too long to adjudicate. The following examples illustrate situations where quick resolution of the problem would be desirable.

- Track surfaces may be unsafe for greyhounds or horses which can affect the outcome of a race as well as threaten the animals' well-being. In the case of horse racing, an unsafe

To date, the Commission has taken only one formal action against a racetrack licensee--a probated penalty for false advertising.

track also creates a hazard for jockeys.

- Drainage problems that cause standing water in barn or kennel areas that pose health hazards.
- Inappropriate handling of trash and manure can also create a hazard that needs immediate attention.
- Failed lighting on the track, in patron areas or on a track's backside, would also require prompt action.
- For immediate enforcement purposes, the executive secretary can write memos to the track and request compliance, can prevent state stewards and judges from coming to work, and threaten to begin action for administrative penalties or license suspension proceedings.
- With these limited enforcement tools at the agency level, the tracks promise to correct the violations but postpone making improvements while continuing to operate. A review of agency files revealed such problems. According to agency staff, these problems need to be solved more quickly to protect the health, safety and welfare of the public, race animals and occupational licensees.

▼ **Some of the track inspection and enforcement problems stem from the lack of a director of racing to oversee racetrack operations.**

■ No person has direct responsibility for ensuring that tracks are constructed, inspected and operated within standards. Instead, these responsibilities are shifted to persons charged with other duties. Consequently, the executive secretary and director of enforcement have been performing the track oversight duties and supervising stewards, judges and staff investigators in efforts to gain racetrack compliance.

■ Most other states' racing commissions place the responsibility for racetrack inspections with the commission's racing division, headed by a director of racing.

■ Since the establishment of TxRC, the agency has had three directors of racing. The first one served 10 months from April 1989 to January of 1990. The second one served for four months from January 1990 to April 1990 and then became the executive secretary. The third racing director was employed from January 1992 to December 1993. The position has been vacant since.

CONCLUSION

TxRC staff has experienced significant problems in the oversight of racetrack construction and the regulation of general racetrack operations. The

problems stem from a lack of statutory direction in these areas, failure of the agency to set up a standard inspection program, and limited enforcement tools to take quick action when needed.

Recommendations

Changes in Statute

- **Require the Commission to establish a standard method for conducting ongoing track compliance inspections including:**
 - issuing notices of violation when problems are identified
 - requiring racetrack submission of a corrective action plan for agency approval
 - setting deadlines for tracks to correct violations
 - provisions for timely reinspection of the facility
- setting specific enforcement actions for failure to take corrective action within Commission time-frames;
- **Authorize the agency to rescind race dates for violations of the Act or Commission rules; and**
- **Require a racetrack licensee that does not comply with any portion of the compliance inspection program to appear before the Commission at a public meeting to consider the matter.**

Management Action

- **Establish a standard method for overseeing the construction of racetrack facilities that includes improved inspection scheduling, structured progress reports, improved documentation and Commission approval of all changes throughout the project;**
- **Increase efforts to employ a director of racing to supervise and coordinate the agency's inspection efforts;**
- **Establish a system that requires stewards and judges to assist in conducting inspections and report the results to the agency on a routine basis; and**
- **Report on racetrack inspections on a regular basis at the Commission's formal meetings.**

This recommendation would improve TxRC's oversight and regulation of racetrack facilities by enhancing the agency's inspection program and providing additional enforcement authority. Compliance with Commission standards should occur more promptly because of a more integrated approach between staff and the Commission through set time-frames for track improvements.

The management recommendation directs the agency to ensure that personnel key to the regulation of racetrack operations are in place and that a system is established to provide for regular and routine inspection of racetracks. The results of the inspection should be made available to the Commission to alert them of any potential problems before they get out of hand.

FISCAL IMPACT

To allow the agency to adequately perform racetrack inspections and provide oversight, additional costs would be incurred for an inspector's salary, benefits, supplies, and travel. Since the agency is self-supporting through fees, the cost for this additional position and related expenses would be recovered and would not result in a fiscal impact to the state. The TxRC budget already includes funds for a director of racing position.

ISSUE 4



INCREASE TEXAS RACING COMMISSION OVERSIGHT OF PROGRAMS FUNDED THROUGH PROVISIONS OF THE TEXAS RACING ACT.

BACKGROUND

The Texas Racing Act allows certain deductions from track funds to be diverted to programs and activities that benefit the racing industry. Little is known about the impact of these funds and whether they are supporting or accomplishing the purposes for which they were intended.

The Act authorized TxRC to establish the Texas Bred Incentive Program (TBIP) to encourage the breeding of racehorses and greyhounds in Texas. The program is funded through a portion of bets made by racetrack patrons. The chart, *Texas Racing Commission Expenditures - Fiscal Year 1993*, shows TxRC expenditures. In addition, the two charts, *Texas Bred Incentive Program—Horse Racing - Fiscal Year 1993* on page 28, and *Greyhound Racing - Fiscal Year 1993* on page 30, illustrate the flow of funding for this program.

However, the limited information available does not show a significant impact related to breeding of Texas animals. For example, the number of people involved in raising greyhounds in the state has

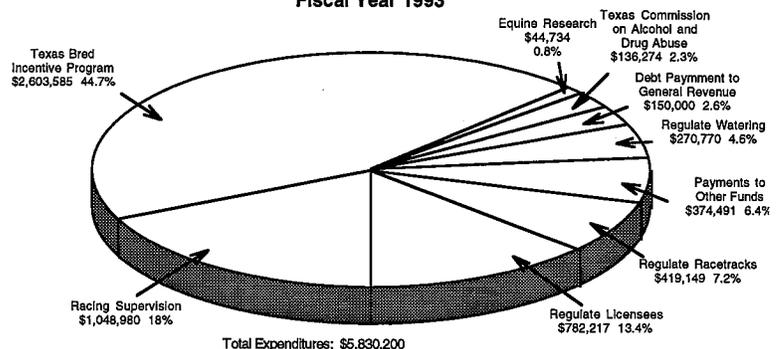
stayed constant even with the incentive program flowing funds to breeders for several years. Information that assesses the impact of TBIP incentives on horse breeding is limited.

For horse racing, funding of the Texas Bred Incentive Program comes from two sources: (1) a portion of the *breakage*, or the money accumulated from rounding bet payoffs down to the nearest dime; (2) a part of the pool of money wagered on the outcome of two or three horses, often called the "exotic pool." This pool includes bets such as exactas and trifectas.

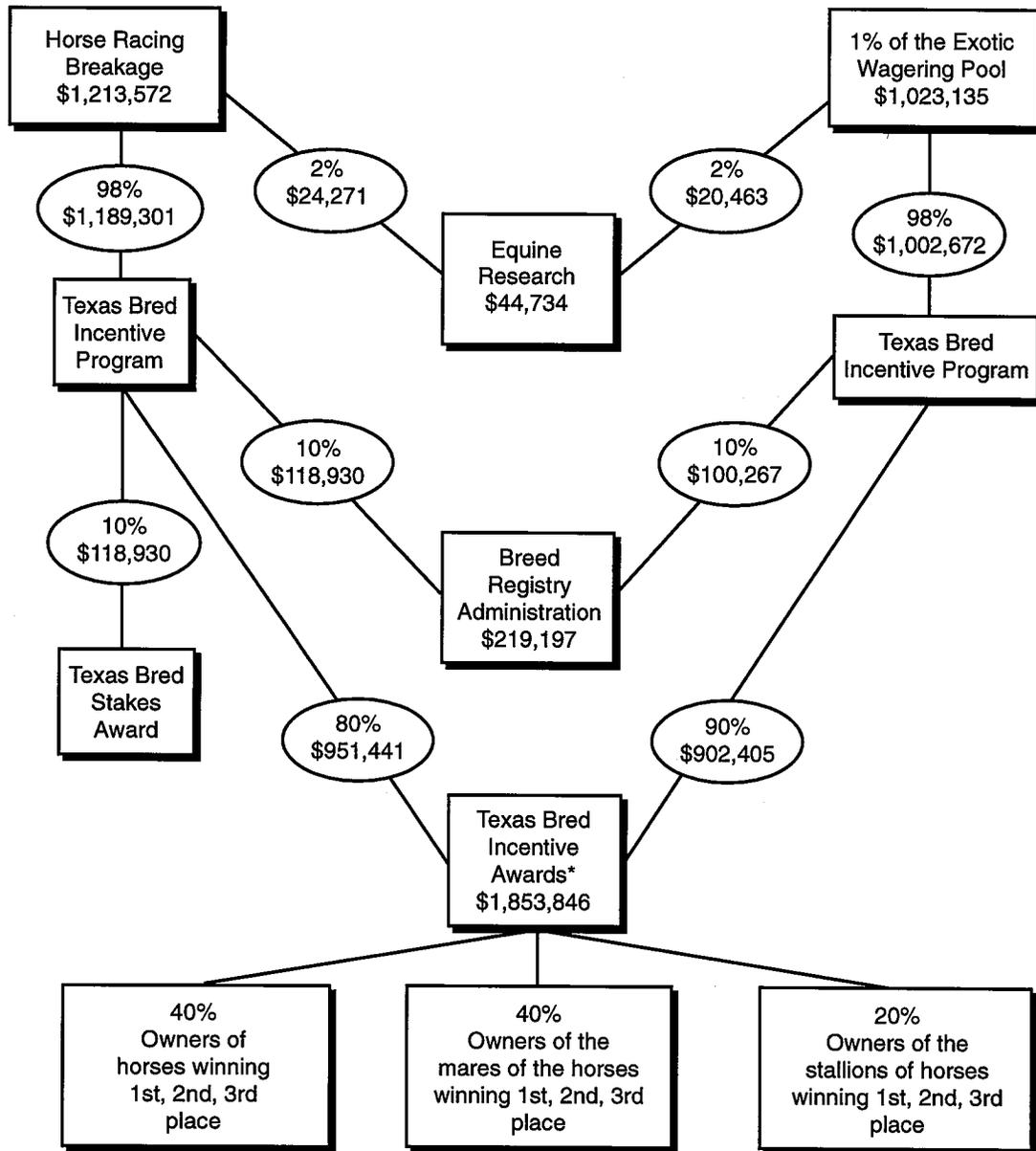
For greyhound racing, funding for the incentive program comes from half of the breakage and one percent of the exotic pool wagers.

Little is known about the impact of Texas bred incentive funding.

Texas Racing Commission Expenditures
Fiscal Year 1993



**Texas Bred Incentive Program
Horse Racing
Fiscal Year 1993**



*Breed registries administer the Texas Bred Incentive Awards.

The Texas Bred Incentive Program has two components. One part is funding for Texas Bred Stakes Awards that provides purse supplements to owners of horses and greyhounds for winning Texas Bred Stakes Races. Stakes races often require significant entry fees by animal owners and draw top performing race animals because of the much higher purses that the stakes award money provides. These races are restricted to Texas-bred horses or greyhounds only.

The larger part of the TBIP is the *Texas Bred Incentive Awards*. For horse racing, the program gives cash awards to owners of accredited Texas-bred horses that finish first (win), second (place), or third (show). Awards also go to owners of the mares and stallions of these winning horses.

The horse racetracks send the TBIP portion of the breakage and exotic wagers to TxRC for distribution to the breed registries. Breed registries are associations that verify and register an animal's breed and pedigree. Distribution of money to the breed registries is based on the proportion wagered on races of a particular breed. Since thoroughbreds and quarter horses start the large majority of races, these breed registries receive the majority of the money for the award program. The chart,

Breed Registry Receipts - Fiscal Year 1993 shows the distribution of funds among the breed registries.

All of the official Texas breed registries are designated in the Racing Act. Individual Texas breed registries administer the Texas Bred Incentive Program and distribute the awards. Four breed registries are currently administering this program: the Texas greyhound, thoroughbred, quarter horse, and arabian breeders associations. Other breeds eligible for the awards are Texas-bred appaloosa and paint horses. These registries are in the process of having their rules approved by TxRC.

Since 1991, the average amount of owner, breeder, and stallion awards earned in regular, non-stakes races by Texas-bred thoroughbred horses has been about \$832, and for quarter horses \$112.

For greyhound racing, the Texas Bred Incentive Program offers awards to owners of accredited

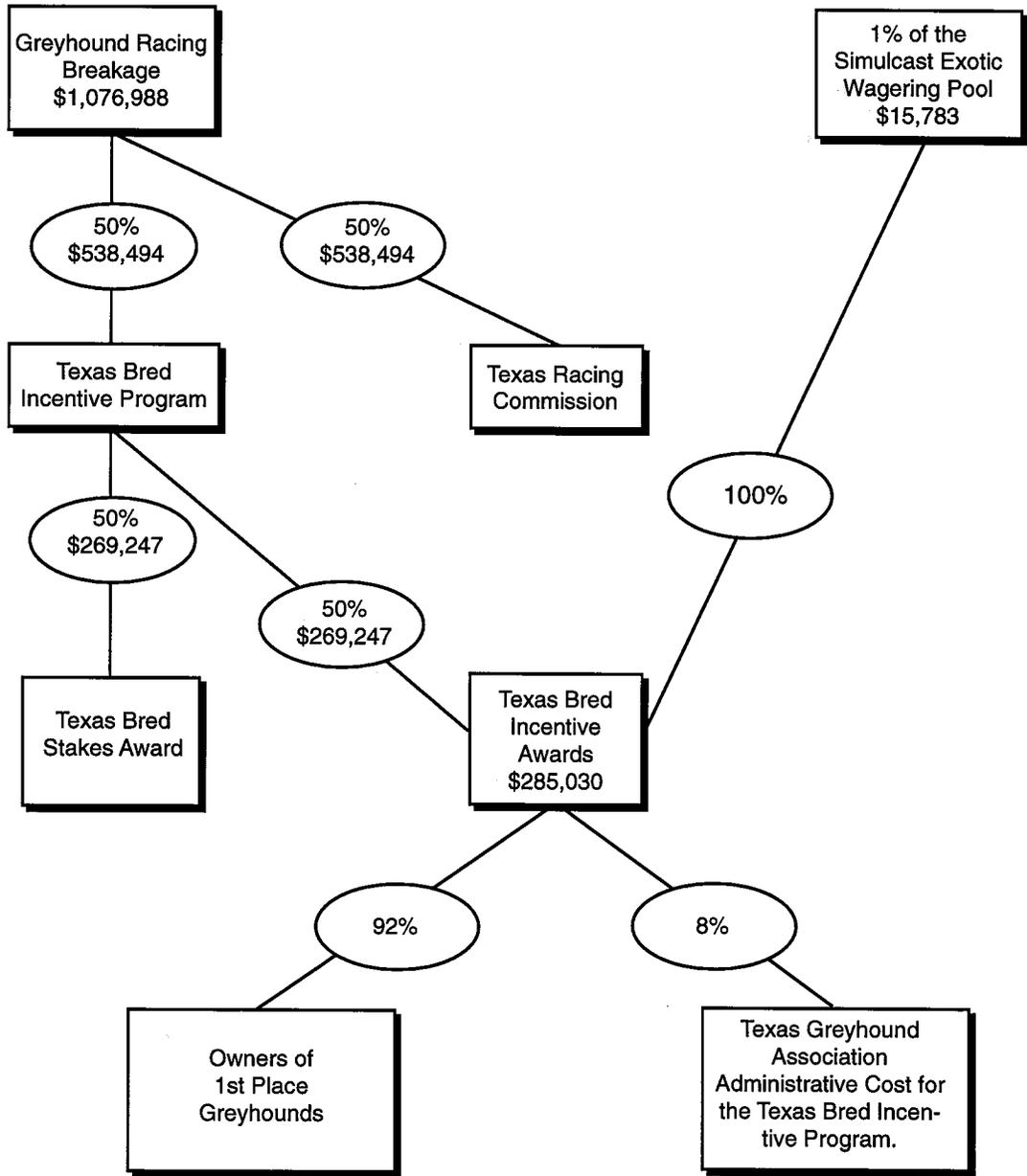
Average amount of awards is \$832 for Thoroughbreds; \$112 for Quarterhorses and \$28 for Greyhounds.

Breed Registry Receipts - Fiscal Year 1993

Horse Breeds	Association	Amount
	Texas Thoroughbred Breeders' Association	\$1,247,823
	Texas Quarter Horse Association	\$788,302
	Texas Arabian Breeders' Association	\$13,322
	Texas Paint Horse Breeders*	\$1,712
	Texas Appaloosa Breeders*	\$3,997
Greyhounds	Texas Greyhound Association	\$285,030
Total		\$2,340,186

*These amounts are held by the TxRC due to lack of approved breed registries.

**Texas Bred Incentive Program
Greyhound Racing
Fiscal Year 1993**



Texas-bred greyhounds finishing in first place. The average amount of a greyhound award is about \$28. Greyhound awards are significantly lower than horse awards because the statute provides a smaller cut of race track funds. In addition, because greyhound tracks operate nearly year round, there are many more races and winning animals than horse racing's more limited schedule provides.

In fiscal year 1993, horse breed registries awarded about \$1.8 million in incentive awards. The Texas Greyhound Association awarded about \$285,000. About \$5,700 dedicated for Texas-bred appaloosa and paint horses is held by TxRC until the designated breed registry's rules are approved by TxRC.

The statute requires TxRC to distribute appropriate funds to breed registries and adopt rules relating to the accounting and audit of the funds. The review focused on TxRC's efforts to ensure proper use of the distributed money and to measure the performance and impact of the program.

FINDINGS

- ▼ **TxRC has little information available to measure the effectiveness of the Texas Bred Incentive Program.**

- ▶ The program has been operating since 1989 and horse breed registries have received more than \$7.8 million from TxRC to fund the Texas Bred Incentive Program. In comparison, the state has received \$8.7 million in tax revenue from horse racing, not including simulcasting, in the same time period.

- ▶ TxRC has adopted rules that only require annual financial statements from the breed registries. The registries voluntarily send copies of audits when available. These documents are reviewed by TxRC staff and kept on file. The documents do not contain information on program effectiveness.

- ▼ **Although the breed registries maintain some performance information, it is not comprehensive or consistent.**

- ▶ Information received from meetings with the breed registries revealed that they do collect some performance information. For example, one of the breed registries maintains information on the number of horses foaled in Texas and the number of stallions moving to Texas each year.

Since 1989, horse breed registries have received more than \$7.8 million for the Texas Bred Incentive Program.

Tracks deduct two percent of a horse owner's purse winnings for Texas Horsemen's Benevolent and Protective Association.

▶ The Breed Registries do not consistently maintain information needed to measure the effect of incentive funds.

▼ **The statute does not provide sufficient direction or authority to TxRC regarding the Texas Bred Incentive Program.**

▶ First, TxRC does not have specific statutory authority to monitor the use of funds and the statute does not direct TxRC to assess the effectiveness of the incentive programs administered by breed registries.

▶ In addition, TxRC does not have clear statutory authority to take actions if problems develop.

▼ **Requiring financial audits and information on the impact of the Texas Bred Incentive Program would increase its accountability.**

▶ Up to ten percent of Texas Bred Incentive Program funds received by horse breed registries can be used for administrative expenses. The statute does not limit administrative expenditures for the greyhound program. The Texas Greyhound Association reported about eight percent administrative expenses in

1993, which is similar to previous years. Although administrative expense information is submitted to TxRC, the information is not always audited and TxRC cannot determine its accuracy.

▶ Information on the performance of TBIP would provide the Legislature and the public with information regarding the effectiveness of the program.

▼ **Little financial or performance information is available on some of the other entities receiving funds generated from pari-mutuel wagering.**

▶ The Texas Horsemen's Benevolent and Protective Association (THBPA) receives funds as a result of contracts with pari-mutuel horse race tracks. The Act allows tracks to deduct money from a horse owner's purse winnings for an organization of the horse owner's choice. The THBPA has entered into contracts with all the Texas tracks, except the Gillespie County Fair and Festivals Association, to receive the two percent of purse winnings unless the owner objects.

THBPA received about \$241,000 of funds statutorily dedicated to purses in 1993.

Using the purse money and other funds, THBPA paid about \$57,000 to assist track employees with medical and other expenses. The remainder of their funds are used for activities such as interacting with TxRC and the state Legislature to make changes to the Act and the Commission's rules that benefit Texas horsemen.

Although THBPA voluntarily sends copies of annual financial statements to TxRC, little information is available on the impact of their expenditures and TxRC has no authority to take action against the organization if problems are found.

◆ In comparison, tracks earn significant sums from wagers

and the TxRC has extensive oversight of the tracks' finances, management and ownership. The Texas Commission on Alcohol and Drug Abuse (TCADA) also receives money from racing. TCADA is subject to performance budgeting through the legislative appropriations process.

CONCLUSION

The state has a responsibility to examine the proper use and effectiveness of money it provides, whether to state agencies or to private entities. The Legislature authorized creation of the Texas Bred Incentive Program and developed a funding source for the program. However, little information is available to TxRC to ensure that the program is sound and meeting legislative objectives.

The State has the responsibility to examine the proper use of money it provides.

Recommendations

Changes in Statute

■ Require TxRC to improve oversight of organizations receiving racing funds as follows:

- Require TxRC to work with the breed registries and any other organization, other than TCADA, receiving racing funds to determine appropriate performance measures to report and monitor;
- Require annual independent audits including verification of performance reports be sent to TxRC;

- Authorize TxRC to conduct a follow-up examination of an organization's records if necessary; and
- Authorize TxRC to withhold funds or to require a track to withhold funds if problems are found with expenditure or reporting of funds or performance.

This recommendation will help ensure that the Legislature and the public receive information regarding the effectiveness of the Texas Bred Incentive Program necessary to assess whether the program meets its legislative objectives. Breed

registries and other entities will be required to report financial and performance information to TxRC for evaluation. TxRC will have the authority to follow up on the audits and take actions if problems are found.

FISCAL IMPACT

This recommendation would not result in a fiscal impact to the state. TxRC staff would need to increase its review efforts of financial and performance information submitted by the four approved breed registries and the THBPA.

ISSUE 5



IMPROVE THE INTEGRITY AND SAFETY OF PARI-MUTUEL RACING BY MAKING THE TOP REGULATORY OFFICIALS AT EACH TRACK DIRECTLY RESPONSIBLE TO THE STATE.

BACKGROUND

Racetrack officials licensed by the Texas Racing Commission (TxRC) serve to ensure the integrity of horse and greyhound races. The highest-ranking officials at horse tracks are called stewards and at greyhound tracks, judges.

At each racetrack, three stewards or judges form a board. The presiding steward or judge is a TxRC employee. The remaining two are employees of the track.

The stewards and judges declare each race official and oversee the conduct of licensed race participants and racetrack workers.

Decisions on the fairness of a race and the discipline of a licensee are made by majority vote. As a result, the stewards or judges employed by the track can control the actions of the board.

In overseeing racing matters at a track, stewards and judges have both individual and collective powers and duties. For example, only one steward or judge is required to supervise the process

of qualifying race entries, thereby giving that single official the power to limit or expand the number of animals eligible to race.

As a panel, stewards or judges control pari-mutuel wagering at the racetrack. For instance, at the appropriate time after the horses or greyhounds are loaded into the starting gate or box, the stewards or judges order the pari-mutuel tellers to stop taking bets. Thus, the officials may hold the race animals at the start to allow long lines of patrons to finish placing their bets.

The highest-ranking officials at horse tracks are called stewards and at greyhound tracks, judges.

Legislative History of Who Employs the Stewards and Judges

Adopted in 1986 when the Legislature legalized pari-mutuel wagering, S.B. 15 by Senator O. H. ("Ike") Harris treated the employment of horse-racing stewards and greyhound-racing judges differently. On one hand, TxRC approved the hiring of the three stewards from a list of candidates submitted by the horse racetrack. On the other hand, TxRC appointed all three judges but paid only one of them; the greyhound track paid the other two officials. Under this scheme, the stewards and judges were unsure who their employer was.

In 1991, Sen. Harris sponsored a clarifying amendment adopted by the Legislature making one of the stewards and judges at each track the employee of TxRC and the other two the employees of the racetrack.

In 1993, the Senate passed another bill by Sen. Harris that would have made all three stewards and judges at each track the employees of TxRC. The House committee to which the bill was referred, however, did not report it out.

Two out of the three top regulatory officials at each track are not state employees.

To ensure fairness, stewards and judges watch each race through binoculars or on television monitors, looking for possible infractions of the rules. They may raise their own objections or consider objections by others, such as a jockey, trainer, or kennel operator, that one of the riders or animals interfered with the outcome of a race. If no infractions are alleged, they declare the race official soon after the finish and allow winning bettors to be paid.

The race is not declared official and winning ticket-holders are not paid until the stewards and judges have made an inquiry into any alleged infraction. If the officials confirm an infraction, they disqualify the violator and post a new order of finish.

The stewards and judges also exercise general authority and supervision over all occupational licensees at racetracks—from jockeys and grooms at horse tracks to kennel operators and starters at greyhound tracks.

In the event that a licensee violates the Racing Act or TxRC's rules, the stewards and judges have the power and duty to take disciplinary action. These officials may suspend an occupational license for up to one year, impose an administrative fine of up to \$5,000, and exclude or eject

persons from the racetrack premises. All these actions can be taken without the approval of the racing commissioners, though the Commission does hear appeals of stewards' and judges' rulings.

The review focused on the operation of the boards of stewards and judges as well as the relationships among the TxRC-employed steward or judge, the track-employed officials, and the racetrack managers at each racetrack.

FINDINGS

▼ **Although two of the three board members are not state employees, they may take actions against state-approved licensees.**

■ In fiscal year 1993, stewards and judges issued 804 rulings affecting state licensees. Out of the total rulings, the stewards and judges suspended 293 licenses and levied \$6,650 in fines.

■ Disciplinary action by a non-state employee inappropriately places state authority in the hands of those employees. Licensing is a power of state government that allows TxRC to limit or prohibit involvement in an occupation through the denial, suspension, or revocation of a license. The power to take disciplinary

action against an occupational licensee is inseparable from the government's licensing authority and should not be delegated to regulated entities, whose objectivity may be questioned on the grounds of conflict of interest and undue influence.

▼ **Allowing racetrack employees to issue rulings against a state-issued license is inconsistent with other state agencies' licensing and regulatory practices.**

► Disciplinary action against licenses issued by most state agencies can only be taken by an employee of that agency or an appointed state board or commission member. For example, only the State Board of Medical Examiners can take state disciplinary action against a physician. Private doctors who serve on a hospital's peer review committee may suspend physicians' hospital privileges but not their state-issued licenses.

▼ **Employment of stewards and judges by a racetrack can represent a conflict of interest because decisions made by stewards and judges can have a direct impact on a racetrack.**

► Racetrack management can directly or indirectly pressure

stewards and judges into making racing decisions to benefit the racetracks.

For example, the officials are responsible for ordering wager refunds that are sometimes necessary due to technical or human error. While track-employed stewards and judges may be reluctant to order refunds, state-employed stewards and judges can function more independently.

► State stewards and judges in Texas report that some licensees have received unwarranted leniency from track-employed officials. Stringent disciplinary action could have created negative publicity for the racetrack or reduced the availability and quality of race animals ridden or trained by the violator. Such consequences harm business at the racetrack by discouraging patrons from attending races.

► In a public meeting of TxRC, Commissioners criticized management at a horse racetrack for allegedly pressuring track-employed stewards to give a light penalty to a trainer who violated drug possession laws.

► The TxRC staff has issued verbal warnings to racetrack

Private racetrack employees are authorized to take administrative action against state-issued licenses.

When a racing association can terminate two of the three highest ranking regulatory officials at a racetrack, potential exists for inappropriate rulings and decisions.

associations about direct pressure applied to stewards and judges. In one incident, when a track-employed steward considered action against another racing official for unauthorized wagering at the track, the steward was told that the official was a friend of the track manager and that the track could always hire a new steward. Agency staff intervened, issued a verbal warning, and the disciplinary matter went forward.

▶ Racing officials in other states report similar instances of racetracks exerting pressure on stewards and judges. In one case, it was reported that track-employed stewards have delayed the start of races to allow additional betting to take place even though such delays can stress or tire a horse and unfairly affect the outcome of a race.

▶ Also, in other states, stewards have discovered the use of electrical shocking devices. Instead of reporting the violations to the state racing commission for investigation, the track-employed stewards reported the incidents to track management, who did not take action against the licensees.

▼ **The trend in other states is to require all or a majority of the board of stewards and judges to be state employees.**

▶ A survey of 14 major and neighboring racing states revealed that only three—Florida, Kentucky, and Louisiana—allow a majority of the stewards and judges to be track employees.

▶ In New York, private racing organizations employ two of the stewards at each racetrack, while the state employs the remaining one. Only the state-employed steward, however, has the authority to impose administrative fines or suspensions against occupational licensees.

CONCLUSION

When a racing association can terminate two of the three highest ranking regulatory officials at a racetrack, potential exists for inappropriate rulings and decisions. Although the state, through the Racing Commission, has the ultimate responsibility for ensuring that pari-mutuel racing is fair and safe, the key watchdogs in the system are the stewards and judges. Allowing racetracks to employ and supervise two out of the three principal racing officials on-site jeopardizes TxRC's duty to ensure the integrity of pari-mutuel racing. Not unexpectedly, track-

employed stewards and judges may be reluctant to take actions that have serious negative economic consequences for their employers. Additionally, track-employed stewards have a majority voice in disciplinary actions taken against persons holding a state-issued license.

Recommendation

Change in Statute

■ **Require that the Texas Racing Commission employ all stewards and judges.**

This recommendation will remove any potential conflict-of-interest for racing stewards and judges. An impartial board of stewards and judges would strengthen the state's effort to ensure safe and fair

pari-mutuel racing. All decisions to hire and fire stewards and judges would fall to TxRC, which would assume all day-to-day oversight of these racing officials' activities. TxRC should consult with tracks on individuals hired to help ensure that the agency hires qualified officials.

FISCAL IMPACT

This recommendation will not result in a net fiscal impact to the state. Costs of the recommended change will be covered by increased track official fees paid by the racetracks.

ISSUE 6



THE TEXAS RACING COMMISSION SHOULD RECOVER COSTS OF CRIMINAL HISTORY REPORTS.

BACKGROUND

The Texas Racing Act requires the Commission to license all individuals who participate in pari-mutuel racing, ranging from jockeys, trainers, and kennel operators, to concession workers and track managers.

In fiscal year 1993, the Commission issued 8,632 new and 7,642 renewed licenses for a total of 16,270 licenses issued.

License fees range from \$20 to \$75 per year depending on occupational category. For example, the license fee for parking attendant, veterinarian assistant, and stable foreman is \$20, while the license fee for racing industry representative, kennel owner, trainer, and jockey is \$75.

In fiscal year 1993, the Commission collected \$845,526 in occupational licensing fees and used these funds to cover the cost of administering the licensing program and regulating the activities of the licensees.

The Act requires license applicants to submit fingerprints with their initial license application. TxRC uses the fingerprints to conduct

federal and state criminal history checks.

TxRC staff sends two fingerprint cards to the Department of Public Safety (DPS). DPS processes one card for a state criminal history check and sends the other card to the Federal Bureau of Investigations (FBI) for a federal criminal history check. DPS reports that the cost of a state criminal history check is \$15, while the federal check costs \$24.

The Texas Racing Act authorizes the Commission to receive all arrest and conviction data including information maintained by the FBI.

Every five years, individuals are required to resubmit their fingerprints to TxRC along with their annual renewal application and fee. At that time, TxRC will conduct another

In fiscal year 1993, TxRC issued 16,270 licenses, and collected more than \$845,000 in occupational licensing fees.

Common Occupational Licensees
Fiscal Year 1993

Type of Licensee	Number Licensed
Texas A&M University Lab Staff	14
Exercise Riders	197
Farriers (Horseshoers)	71
Food Service Employees	1,131
Horse and Greyhound Owners	6,644
Horse and Greyhound Trainers	1,526
Jockeys	236
Jockeys' Agents	32
Kennel Owners	83
Kennel Helpers	264
Law Enforcement Personnel	267
Medical Staff	77
Pari-Mutuel Wagering Clerks	1,320
Racetrack Stewards and Judges	15
Racetrack Office Staff	93
Racing Officials	75
Security Officers	233
State Stewards and Judges	7
State Veterinarians	20
Totalisator Technicians	54
Racetrack Chaplains	8
Veterinarians	55

The Department of Public Safety absorbs the costs of performing criminal history checks for TxRC.

background check and send a fingerprint card to DPS for a federal criminal history check by the FBI.

A state criminal history check is not performed at the time of the five-year anniversary. Instead, DPS monitors the state crime records on a routine basis and notifies TxRC about any new arrests or convictions received for racing licensees.

TxRC enforcement staff uses the results of the criminal histories to identify any illegal behavior that could affect an individual's fitness to perform the duties associated with the license. Agency staff looks closely at offenses related to fraud, illegal gambling, homicide, burglary, robbery, theft, cruelty to animals, narcotics, and arson. The agency reviews the nature and seriousness of the crime as well as the extent to which a license affords the opportunity to engage in further criminal activity. Of all license applications and renewals received each year, about 18 percent of the individuals have criminal histories that need to be reviewed by agency staff.

FINDINGS

▼ **DPS absorbs all the direct costs of performing criminal history checks for TxRC.**

- DPS spends an average of \$107,000 per year to check

state criminal histories for TxRC and pays the FBI an average of \$124,000 annually for federal criminal history checks. The state does not recover any of this \$231,000 from license applicants.

- The DPS does not request reimbursement for TxRC's criminal history checks because funding comes from the State Highway Fund specifically for this task.

▼ **Many of the other state agencies that require criminal history checks for licensing recover all or a portion of the cost from the license applicant.**

- Noncriminal justice agencies that recover all or some of the costs of criminal history checks through license application fees include the Texas Lottery Commission, Office of the Banking Commissioner, Texas Department of Licensing and Regulation, Board of Law Examiners, Texas Department of Mental Health and Mental Retardation, and the State Board of Insurance.

- Most criminal justice agencies do not perform licensing functions and therefore do not recover the costs of their criminal history information checks.

▼ **Costs to the state will increase when the TxRC begins to resubmit fingerprint cards to DPS for federal criminal history checks for licensees renewing their licenses after five years.**

▶ Because TxRC has only been issuing licenses since 1989, it has not incurred costs for any renewals. TxRC policy is to conduct new criminal history checks at the five-year anniversary of licensure. When a licensee who has been licensed for five years applies for renewal, the individual will be required to undergo another federal criminal history check. Monitoring of state criminal history is done on a routine basis by DPS and not tied to license renewal.

▶ Beginning in 1995, DPS will incur costs for federal criminal history checks on licensees who have reached their five-year anniversary. Based on agency estimates, the five-year checks will result in additional expenses to DPS of about \$385,000 over a five-year period.

▼ **Although TxRC has statutory authority to recover the costs of background checks, no incentive exists to do so**

because those costs are included in DPS' appropriation.

▶ The statute, along with the current general appropriations act, direct TxRC to recover the costs of providing services. However, the cost of performing background checks is included in the DPS budget and DPS does not charge TxRC for the checks.

CONCLUSION

Current practice in state government is that fees paid by licensees should cover the costs of regulation. Each year, DPS spends more than \$230,000 on state and federal criminal history record checks for new applicants. It is estimated that an additional expenditure of about \$385,000 will be necessary over the next five years to conduct federal criminal history checks on individuals renewing their licenses. Many other noncriminal justice agencies that require criminal history checks for licensing do recover some or all of the costs in an application fee. The TxRC currently recovers only the costs of its investigators who follow up on criminal histories.

Having TxRC recover the costs of criminal background checks would free up funds for law enforcement.

Recommendations

Changes in Statute

- **Require the Texas Racing Commission to collect licensing fees that cover the cost of conducting criminal history checks.**
- **Require the Commission to reimburse Department of Public Safety for the costs of criminal history reports.**

This approach would direct TxRC to reimburse DPS for costs of criminal history reports, thus allowing DPS to focus its resources on highway safety and reducing crime. In addition, the recommendation would allow TxRC to recover more of

the regulatory costs associated with racing. It would also make the agency's licensing program more consistent with other state agencies that use criminal history reports. The Commission would be required to set new and renewal licensing fees that reflect the cost of state and federal crime record checks. However, the Commission should continue to be required to base the license fees on the relative incomes or property interests of the various categories of licensees.

FISCAL IMPACT

This recommendation would require the agency to recover costs for state and federal criminal history checks and result in estimated additional revenue of about \$557,000 for the biennium, based on TxRC estimates of licensing activity. Recovering the costs of background checks could increase license fees by approximately \$39 for new applicants and \$24 for licensees at their five-year anniversary. Licensees with limited incomes would see lower

fee increases. These recovered costs would be collected by TxRC and deposited in the Texas Racing Commission Fund for eventual transfer to DPS as reimbursement for their expenses in conducting criminal history checks. Funds currently used by DPS to conduct TxRC crime record searches could be used for other public safety purposes including highway safety and fighting crime.

Fiscal Year	Gain to Texas Racing Commission Fund for Transfer to DPS
1996	\$257,000
1997	\$300,000
1998	\$274,000
1999	\$306,000
2000	\$406,000



ISSUE 7

CONTINUE THE TEXAS RACING COMMISSION FOR SIX YEARS TO OVERSEE PARI-MUTUEL RACING IN TEXAS.

BACKGROUND

Since its inception, TxRC has been responsible for:

- licensing racetracks and supervising every race meet involving wagering on the result of horse or greyhound racing;
- promulgating administrative rules and procedures for conducting horse or greyhound racing;
- regulating and supervising all persons and activities relating to the operation of racetracks, other than patrons; and
- processing complaints, imposing administrative penalties, and taking other disciplinary actions against violators of the Texas Racing Act or the Commission's rules.

Over the past five years, TxRC has primarily been licensing tracks and workers and overseeing track construction and initial operations. Over the next few years, the agency's role will move toward continuing operational oversight of the tracks and racing personnel.

To justify the continuation of an agency's functions, certain conditions should exist. A current and continuing need should exist for the state to provide the functions or services; the functions should not duplicate those currently provided by any other agency; and the potential benefits of maintaining a separate agency must outweigh any advantages of transferring the agency's functions or services to any other state agency.

FINDINGS

▼ **The two main functions of TxRC, licensing and enforcement, are needed as long as Texas authorizes pari-mutuel racing.**

► The licensing function allows TxRC to check the backgrounds of all persons involved in pari-mutuel racing, from owners and trainers of race animals to people who sell food at the track. More than 43,000 people have been licensed by TxRC since 1989. People with a prior criminal history that raises a potential for criminal activity at the race-

Over the past five years, TxRC has primarily been licensing tracks and workers and overseeing track construction and initial operations.

tracks are excluded from licensure and may not work at the tracks. This approach is designed to ensure that racing is as fair and honest as possible.

▶ The enforcement function also attempts to ensure honest racing, as well as safeguard patrons, workers, and race animals. A large part of the enforcement activity is to guarantee the integrity and accuracy of wagering. Racing fans bet more than \$500 million on pari-mutuel racing in Texas during 1993. As a state authorized activity, the state has a responsibility to ensure that pari-mutuel wagering is above board.

▶ The enforcement function not only includes oversight of the wagering system, but also activities such as safety of facilities, ensuring that animals are not being given illegal drugs, and clean running of the races. TxRC sanctioned over 430 licensees for improper activities in fiscal year 1993.

▼ **While organizational structures may vary, most states use an agency similar to TxRC to regulate pari-mutuel racing.**

▶ Regulation of pari-mutuel racing in other states is generally administered through boards or commissions. Of the 44 states that regulate pari-mutuel racing, all but one use a commission or board structure to oversee the regulation. This figure includes states with significant racing activity such as Kentucky, Florida, New York, and California. Only Michigan uses a single commissioner for this purpose.

▼ **The review of agency functions did not show any workable alternatives for combining TxRC with another agency and achieve any substantial cost savings or other tangible benefits.**

▶ Placing the regulatory functions in a single agency ensures that oversight of the racing industry flows smoothly from examining licensees' background to ensuring that licensees conduct racing and pari-mutuel activities properly. Although an agency such as the DPS could handle some of the enforcement aspects of TxRC, much of the oversight of racing activities requires day-to-day on-site monitoring of the pari-mutuel betting system and actual conduct of the races. These are not typical duties of the DPS.

▶ Since a similar number of staff would be required to perform enforcement activities, little or no savings would occur from transferring enforcement functions to DPS.

▶ The Texas Lottery Commission operates the state's lottery system and regulates charitable bingo. The lottery is not a regulatory activity and, other than the fact that it is a type of gambling, has little similarity to oversight of pari-mutuel racing. The Lottery Commission began regulating bingo in 1994 after the function was transferred from the Texas Alcoholic Beverage Commission. Again, little similarity exists to regulation of pari-mutuel racing and no savings would result from combining these activities.

▶ Significant discussions have been taking place regarding expansion of Texas-approved gambling to some form of casino gambling. If such an expansion should occur, there is a potential that some operating efficiencies may be achievable through a single regulatory gaming agency. The issue of continuing an independent Racing Commission could be examined at that time.

▼ **Little information about the economic impact of racing on Texas is available to fully evaluate the state's policies in this area.**

▶ The available information shows that pari-mutuel racing has not met its projections of dollars wagered, income to the state, attendance, and winnings paid to owners of race animals. Racing proponents indicate that delays in getting tracks licensed, built and operating, together with competition from the state lottery, caused the failure to meet projections.

▶ To date, little data is available regarding pari-mutuel racing's impact on agribusiness, tourism, and job creation. Direct track employment is about 3,400 including seasonal and part-time workers, but no information has been collected as to the secondary impact on jobs such as restaurant and hotel employment related to track operations.

▶ The remainder of the tracks authorized in the Racing Act are expected to be operating in the next few years. Until that time, it is difficult to evaluate the full potential economic impact of pari-mutuel racing.

The issue of continuing an independent Racing Commission could be re-examined if Texas legalizes other major forms of gambling in the future.

Commission action has inserted a private organization into simulcasting decisions and other negotiations with the horse tracks.

▼ **Insufficient time has passed to determine the full impact and workability of TxRC rules.**

► As the racing industry has grown, the Commission has adopted extensive rules regulating racing. However, some rules have resulted in unexpected consequences and workability problems.

► TxRC may have created practical problems when it adopted a rule (§ 321.232) requiring racetracks to negotiate all simulcasting matters with "the officially recognized horsemen's organization in this state." The Act does not expressly authorize TxRC to officially recognize a single private organization to represent all the owners and trainers of race horses in negotiations with racetracks.

Adoption of this rule and subsequent official recognition of the Texas Horsemen's Benevolent and Protective Association (THBPA) have inserted a private organization into simulcasting decisions and other negotiations with the tracks. THBPA has been placed in a position to negotiate contracts with racetracks concerning matters beyond simulcasting. These contracts go so far as to require the

tracks to set aside 2 percent of purse funds for THBPA without specific approval of the purse winners. However, the Act prohibits a track from deducting purse winnings for dues or other payments except for an organization of the horse owner's choice. The chairman of the Commission recently requested an Attorney General's opinion on the legality of the 2 percent deduction.

The Commission's simulcast rule is also more restrictive than the federal Interstate Horseracing Act, which governs the transmission of simulcast signals across state lines. The federal law requires only the approval of the horsemen's organization in the state from which the simulcast originates (the sending state), not that of the horsemen in the state where the signal is received (the receiving state). By making Texas racetracks negotiate *all* simulcasting with the horsemen's organization, TxRC injects a requirement for simulcast signals that come into Texas that is not required under the federal act or discussed in the state statute.

► With one Class 1 horse track opening in the last few months and two others scheduled to open, the volume of

horse racing in the state is expected to increase dramatically. The openings will provide a practical test for the workability of the Commission's rules. As with any new venture, some adjustment will be needed.

CONCLUSION

The functions currently assigned to TxRC are appropriately placed in that agency. As long as the state authorizes pari-mutuel racing, a continuing need exists to regulate

racing activities. No other agencies were identified that could assume TxRC's functions with increased benefits to the state or with reduced costs. However, due to the pari-mutuel industry not yet achieving full operating status, significant changes in the industry may take place in the next few years that could require re-evaluation of the agency's policies and operations. In addition, problems exist with regard to the depth of rules adopted by the Commission that may also need to be re-evaluated in the future.

Recommendations

Change in Statute

- **Continue the Texas Racing Commission for a six-year period and require all rules to be evaluated and either re-adopted or repealed by January 1, 1998.**

This recommendation will provide the Legislature with an assessment of TxRC and policies regarding pari-mutuel racing in six years rather than the usual 12-year period for Sunset evaluations. At

the present time, the industry has not developed to the extent originally expected. Little information is available to evaluate many of the original expectations of pari-mutuel racing. A shorter Sunset review cycle of six years will provide the industry additional time to get off the ground and for the agency to move completely into a regulatory and oversight mode of operation.

Management Action

- **The Commission and staff should consult with a broad cross-section of the racing industry during the evaluation and development of the rules.**

As the racing industry moves into its next phase of development, the Commission must evaluate, correct, and refine its rules, which were developed

during the track licensing and construction phase. These refinements should also include an evaluation of whether each rule is fully consistent with authority provided in the Racing Act. Obtaining industry input during the process allows for meaningful interaction and assistance in developing rules that are both effective and workable.

FISCAL IMPACT

If the Legislature continues the current functions of TxRC using the existing organizational structure, its annual appropriations of about \$2.7 million would continue to be required for operation of the agency. TxRC also receives annually about \$2.8 million of pass-through funds for the Texas Bred Incentive Program and to pay track officials. The agency would continue to be self-supporting from

a portion of wagers made at the tracks and from licensing fees. These revenues are deposited in the Texas Racing Commission Fund.

If the Racing Commission were abolished leaving no entity to license racetracks to operate, the General Revenue Fund would experience a loss of about \$10 million per year from the General Revenue Fund's share of pari-mutuel wagers.

Texas Racing Commission	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Apply/Modify	1. Require at least one-third public membership on state agency policymaking bodies.
Apply/Modify	2. Require specific provisions relating to conflicts of interest.
Apply	3. Prohibit persons required to register as a lobbyist from acting as general counsel to the agency or policymaking body or serving as a member of the policymaking body.
Apply	4. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Apply	5. Specify grounds for removal of a member of the policymaking body.
Apply	6. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Apply	7. Require the agency to establish career ladders.
Apply	8. Require a system of merit pay based on documented employee performance.
Apply/Modify	9. Provide for notification and information to the public concerning agency activities.
Apply/Modify	10. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Apply	11. Require information to be maintained on complaints.
Apply	12. Require that all parties to written complaints be periodically informed in writing as to the status of the complaint.
Apply	13. Require development of an E.E.O. policy.
Apply	14. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	15. Provide for public testimony at meetings of the policymaking body.
Apply	16. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Apply	17. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Update	18. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Update	19. Require the agency to comply with the state's open meetings law and administrative procedures law.
Apply	20. Require training for members of policymaking bodies.

Texas Racing Commission (cont.)	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Not Applicable	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Apply/Modify	2. Provide for notice to a person taking an examination of the results of the examination within a reasonable time of the testing date.
Apply	3. Provide an analysis, on request, to individuals failing the examination.
Apply	4. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	5. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Apply	6. Authorize the staggered renewal of licenses.
Apply/Modify	7. Authorize agencies to use a full range of penalties.
Apply/Modify	8. Specify disciplinary hearing requirements.
Apply	9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	10. Require the policymaking body to adopt a system of continuing education.

PARI-MUTUEL RACING

PARI-MUTUEL RACING INDUSTRY IN TEXAS

Pari-mutuel wagering gives winning bettors a share in the pool of money wagered by all betting participants. The winner's share is determined by the total amount of money bet and the type of bet placed by the bettors. The chart, *Pari-Mutuel Definitions*, defines some of the commonly used terms and types of bets in pari-mutuel wagering.

Currently, 44 states allow some type of pari-mutuel wagering, in most cases authorized to attract tourism, jobs, and state revenues.

Texas has had several experiences with pari-mutuel racing since 1905, with the most recent legalization in 1986-87. The chart, *History of Pari-Mutuel Legislation in Texas*, describes Texas' pari-mutuel racing history.

In 1986, the Legislature created the Texas Racing Commission (TxRC) to oversee pari-mutuel horse and greyhound racing in the state.

In 1991, the Legislature amended the Racing Act to:

- authorize TxRC to impose additional administrative penalties up to \$10,000,

Pari-Mutuel Definitions

Racing Terms

Breakage	Money left over when payoffs are rounded down to the nearest dime.
Handle	The total amount of money bet on races.
Pool	The total amount of money bet for wagers such as Win, Place, Show, and exotics.
Purse	The amount of money in a race that is distributed to the top three finishers.
Texas-bred	A racing animal bred in Texas. Some races are limited to those bred in Texas.
Stewards and Judges	Top racing officials similar to umpires or referees. Stewards serve at horse racetracks, and judges at greyhound tracks.
Takeout	The share of the handle deducted from the pools for the purses, track, and state.

Types of Wagers

Win	The Win payoff is collected when the bettor's selection is the first to finish the race.
Place	The second to cross the finish line Places. The Place payoff is collected when the bettor's selection finishes either first or second.
Show	The third to cross the finish line Shows. The Show payoff is collected when the bettor's selection finishes first, second or third.
Exotic	Bets other than Win, Place or Show, such as the Daily Double, Quinellas, Exactas, and Trifectas.
• Daily Double	The Daily Double payoff is collected when the bettor picks the winners of two races.
• Quinella	A Quinella payoff is collected when the bettor picks the first two finishers of a single race in either order.
• Exacta	An Exacta payoff is collected when the bettor picks the first two finishers of a single race in their exact order.
• Trifecta	A Trifecta payoff is collected when the bettor picks the first three finishers of a single race in their exact order.

- reduce the state tax rate and assessing the rate on an escalating scale,
- authorize simulcast racing to supplement live racing, and
- create the Equine Research Account Advisory Committee.

Texas Racetrack Development

Although pari-mutuel wagering was authorized in November 1987, the appointment of the Racing Commission was not complete until April 1989. Several track licenses were subject to protracted litigation. Also problematic was the downturn in the state's economy, which made it difficult for racetracks to obtain financing.

Together these factors delayed the development of Texas racing by at least two years.

The Commission has issued three authorized Class 1 licenses for racetracks requiring new construction in Harris, Dallas, and Bexar Counties. Sam Houston Race Park (Harris County) received its license in August 1991 and opened in April 1994. Retama Park in Bexar County was licensed in October 1991 and is expected to open in the spring of 1995. Lone Star Jockey Club in Dallas County obtained a license in November 1992, but its opening date is uncertain.

Seven Class 2 licenses have been awarded, but only two of these racetracks—Manor Downs in Travis County and Bandera Downs in Bandera County—are currently operating as Class 2 tracks. Trinity Meadows Raceway in Parker County initially received a Class 2 license, but the Commission has converted it to a Class 1 in 1994.

One licensed Class 3 track, the Gillespie County Fair and Festivals Association, operates during the summer. No one has applied for a Class 4 racetrack license.

Licenses for greyhound racing are not separated into classes, but they are limited to three racetracks located in counties that border the Gulf of Mexico. The Commission granted all three authorized

History of Pari-Mutuel Legislation in Texas

1905	Wagering on horse races first legalized in Texas.
1909	Betting on horse races once again prohibited.
1933	To raise state tax revenue, the Legislature authorized pari-mutuel wagering on horse races in a rider to the general appropriations bill, despite rejecting other legislation creating a racing commission.
1937	During a special session of the Legislature, Governor Jimmy Allred persuaded lawmakers to make pari-mutuel wagering illegal.
1939 - 1985	Pari-mutuel wagering advocates unsuccessfully attempted to get the Legislature to legalize pari-mutuel racing.
1986	During the 69th Legislature, second called session, Senate Bill 15 passed legalizing pari-mutuel wagering on horse and greyhound races at licensed racetracks regulated by the newly created Texas Racing Commission. The law, however, would have to be approved by Texas voters in a statewide referendum scheduled for November 1987. Pending such approval, the Governor allowed the bill to become law without his signature.
1987	Voters approved pari-mutuel horse and greyhound racing.

greyhound track licenses to the following tracks: Gulf Greyhound Park in Galveston County; Corpus Christi Greyhound Race Track in Nueces County; and Valley Greyhound Park in Cameron County.

These proceedings delayed pari-mutuel racing in Texas as well as the resulting government revenues and economic benefits.

TEXAS PARI-MUTUEL WAGERING

In Texas, all pari-mutuel wagering must be conducted at a racetrack licensed by the Texas Racing Commission (TxRC). The Racing Act allows people to wager on races run live at a track or on simulcast races shown at the track. Simulcasting allows races being run at one track to be broadcast live to another track, where patrons bet on televised races. Simulcast signals may be sent or received by tracks in Texas or in other states.

Virtually all the revenue generated by pari-mutuel wagering comes from the money patrons bet on races. Pari-mutuel wagerers may place different types of bets, which are allocated to separate pools.

Money in a pool is shared by winning bettors, the state, the winning race entries, the racetrack, and, in some cases, the breeding industry. The money returned to winning bettors is called the "payoff," while the total portion

set aside for the state, winning race entries, and breeding industry is called the "takeout."

Different pools have different payoff and takeout rates. Taken together, the pools make up the "handle"—the total amount bet on a race or at a track over a period of time, such as a day, a week, or a year. The handle can be used to measure the performance of a racetrack or the pari-mutuel industry.

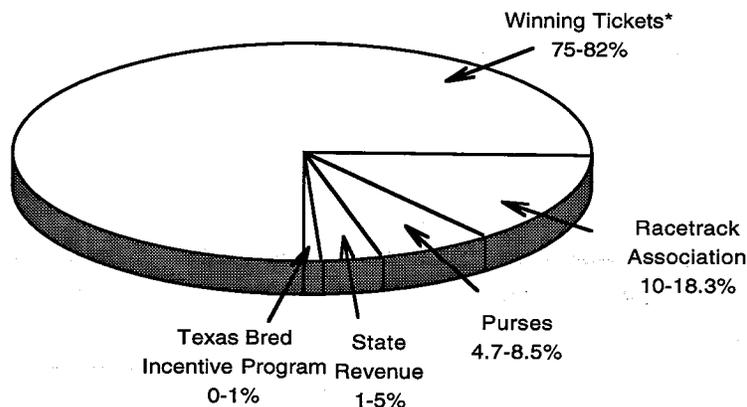
The revenue sharing arrangement for live races is specified in the Texas Racing Act, while the arrangement for simulcasting varies according to provisions in the statute, the Commission's rules, and individual contracts between sending and receiving tracks. Organizations representing horse owners or kennel operators influence the shares dedicated to purses from simulcasting revenues.

The allocation of revenue from live racing is based on both the type of animal raced and the type of wager placed. The graph, *Pari-Mutuel Revenue Payoff and Takeout Rates*, shows a composite of the statutory distribution of wagering revenues.

As seen in the chart, the largest portion of the handle, between 75 and 82 percent, is used to pay winning bettors. The payoff is based on the type and amount of wagers placed and the odds, which

Simulcasting allows races being run at one track to be broadcast live to another track, where patrons bet on televised races.

Pari-Mutuel Revenue Payoff and Takeout Rates



*Including breakage and uncashed tickets

determine the amount returned to winning ticket holders. With their wagers, bettors set the odds, which fluctuate until the start of a race. A computer called the totalisator keeps track of the bets and calculates the payoffs for each pool.

A portion of the handle is defined as breakage. Breakage is the amount left over after the payoff to a winner of a bet is rounded down to the nearest dime. For example, if the calculation of a person's winnings is \$10.26, the person would receive \$10.20. The six cents left over as a result of this rounding is the breakage.

The statute specifies that all breakage from horse racing goes toward improving the breeding of Texas horses through research and financial incentives to breeders. Half of the breakage from greyhound racing also goes toward incentives for breeding quality

Texas greyhounds, while the other half of the greyhound breakage goes to TxRC as part of the funding devoted to the agency.

Another part of the handle includes uncashed winning tickets, often referred to as "outs." A winning ticket that is left uncashed for 60 days after the end of a race meet is no longer valid. Proceeds from the outs are used to reimburse tracks for the costs of animal drug testing, with any excess balances going to TxRC.

The second area on the chart is purses, which is part of the takeout. Purses are the prizes paid to the top three finishing entries in a race. Minimum purses for live greyhound races are 4.7 percent of the amount bet on a race, regardless of the type of wager made. Minimum purses for live horse races range from 7 to 8.5 percent, depending on the type of wager.

The third area of the chart shows the racetracks' portion of the handle, which is their primary source of revenue. The tracks' share ranges from 10 to 18.3 percent, depending on the other variables in the takeout. A track may pay a higher-than-minimum purse rate to attract higher quality race animals.

The fourth area on the chart shows the state's share of the takeout revenue. The state receives a percent of the handle based on the

Breakage is the amount left over after the payoff to a winner is rounded down to the nearest dime.

total dollar value of bets made at the track during a calendar year. For horse racing, the range of the state pari-mutuel tax is from one to five percent of the handle and for greyhound racing the range is from two to five percent of the handle. The tax is at the lowest rate for the first \$100 million of annual handle and increases one percent for each additional \$100 million of annual handle up to a maximum tax rate of five percent.

The last area on the chart concerns the Texas Bred Incentive Program (TBIP) for both horse and greyhounds. As discussed above, TBIP receives a portion of the breakage. The breeding programs also get one percent of the pools formed by bets known as exotic wagers, which involve bets placed on combinations of entries.

The flow of dollars generated by simulcasting becomes somewhat more complicated. In a simple simulcasting arrangement, if a Texas horse-racing track receives a signal from another Texas track or imports a simulcast signal from out-of-state, the Texas track must set aside for purses the same percentage of the amount bet on the simulcast race as it would for purses awarded in a race run live at its track. For greyhound tracks, however, TxRC has approved simulcasting purse percentages that are less than purses for live races.

However, if a Texas horse or greyhound track receiving the simulcast signal forms a "common pool" with the out-of-state track where the race is being run live, the takeout from the handle at the Texas track is the same as it is for the out-of-state track. For example, Arkansas has a lower takeout rate than Texas does. Consequently, a Texas track taking a simulcast signal from an Arkansas track will set aside a smaller portion for purses if the tracks agree to form a common pool between the Texas and Arkansas patrons. The Texas bettors watching the simulcast race get the same payoff rate as those watching the live race in Arkansas.

In sum, when tracks combine pools in an interstate simulcasting arrangement, the takeout structure in the state where the race is run live controls the takeout at the track receiving the simulcast signal.

The Texas pari-mutuel wagering system divides the handle many different ways based on various categories of wagers, including whether horses or greyhounds are racing. However, TxRC and the Comptroller's Office closely monitor the system and, to date, have detected no major problems.

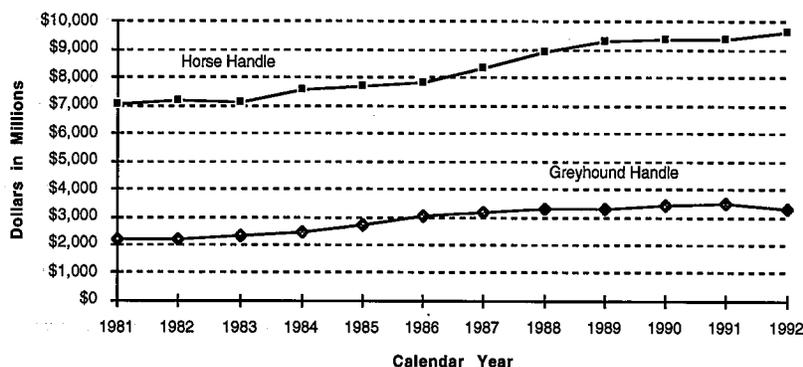
ECONOMIC IMPACT OF PARI-MUTUEL WAGERING

Pari-mutuel wagering is generally viewed by state and local govern-

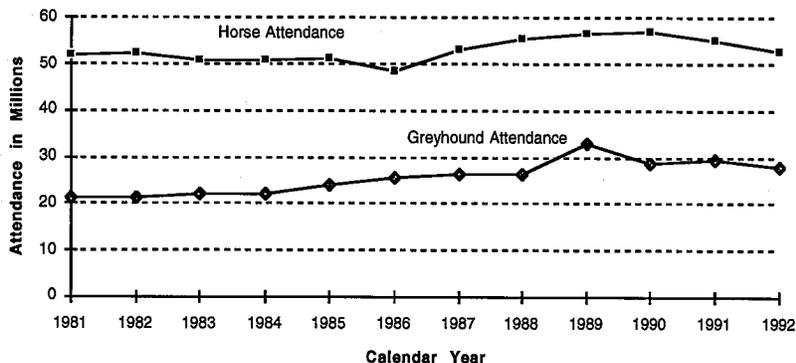
ments as an economic development tool. In addition to creating jobs, attracting tourists, and stimulating the state's breeding industry, both state and local governments generally receive tax or fee revenues from pari-mutuel wagering.

The charts, *National Greyhound and Horse Handles 1981-1992* and *National Greyhound and Horse Attendance 1981-1992* depict the national trends in the amount wagered on and attendance at greyhound and horse races.

National Greyhound and Horse Handles 1981-1992



National Greyhound and Horse Attendance 1981-1992



Nationally, horse racing has a greater attendance and higher handle than greyhound racing.

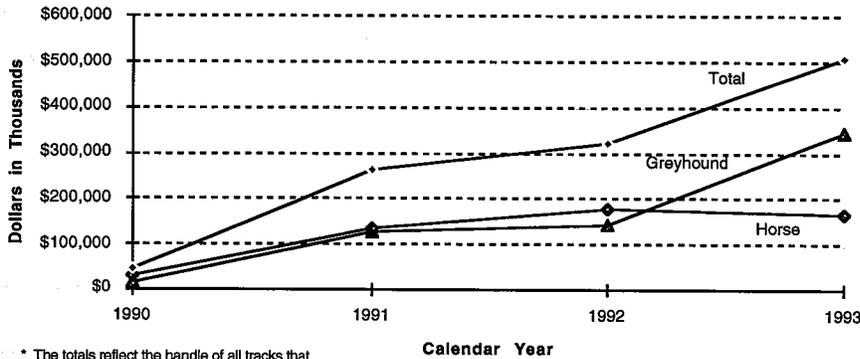
Even though the attendance at horse races has declined since 1990, the amount wagered has increased, while greyhound attendance and handle has shown very little fluctuation over the same time period.

Although some states allow off-track betting in an effort to increase wagering, Texas permits pari-mutuel wagering only at licensed racetracks. Proponents of off-track betting maintain that in order to fully realize the economic goals of the racing industry, Texas will also need to institute off-track betting opportunities for the public.

Wagering on horse and greyhound racing began with the opening of the first horse track in 1990. The graph, *Actual Greyhound, Horse, and Total Handles 1990-1993*, shows the growth in wagering over the past four years.

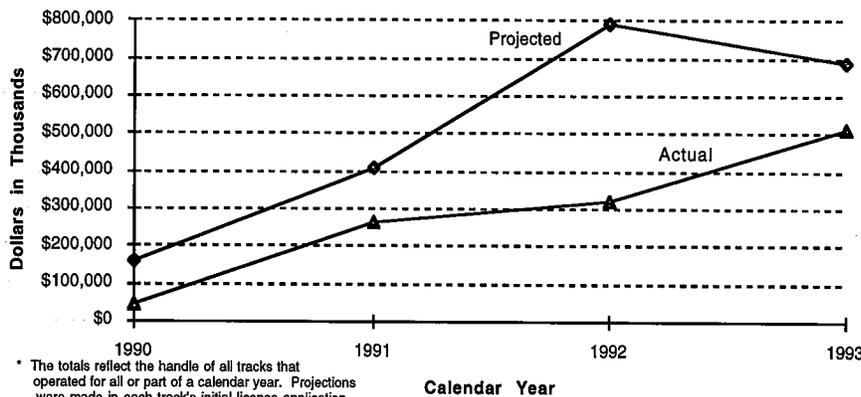
Despite its growth, total wagering at Texas racetracks has only reached about half of the amount that had originally projected by track owners. The graph, *Actual and Projected Handles 1990-1993*, compares the projected and actual wagers in Texas. These projections are submitted to the Texas Racing Commission by the

Actual Greyhound, Horse and Total Handles 1990-1993



* The totals reflect the handle of all tracks that operated for all or part of a calendar year.

Actual and Projected Handles* 1990-1993



* The totals reflect the handle of all tracks that operated for all or part of a calendar year. Projections were made in each track's initial license application, except for Gillespie County Fair & Festivals.

Even though the attendance at horse races has declined nationally since 1990, the amount wagered has increased.

racetracks in their original license applications.

Although the economic benefits that were originally predicted by pari-mutuel proponents have not fulfilled original expectations, some positive economic impact has likely occurred. Assessing the economic impact is difficult at best, but there are two areas in which the economic effect is

assumed: in the creation of jobs and in the race animal breeding industry.

The following sections provide a brief review of the economic impact of pari-mutuel racing in Texas.

Job Creation

Pari-mutuel wagering may create jobs in three areas: construction of

Local governments have collected \$4.9 million in admission taxes as of August 1994.

racetracks and related facilities, operation of racetracks, and expansion of the breeding industry.

Since pari-mutuel wagering became legal in Texas, the eight operating racetracks together estimate they have spent about \$149 million in construction or renovation and employed about 2,000 workers, mostly in temporary jobs that ended with completion of the tracks.

To operate the racetracks, the eight racetracks employ about 3,400 people. Currently, most of these jobs are seasonal, temporary, or part-time.

Because greyhound racetracks operate year-round, unlike seasonal horse racing, greyhound-related jobs tend to offer steadier employment.

In addition to jobs in the construction and operations of racetracks, the racing industry was expected to contribute to growth in agribusiness employment, including race animal breeding and employment in supporting products and services such as feed and veterinarian services.

Little information has been compiled about the effect of pari-mutuel racing on employment in the breeding industry. Since 1990, data from the Texas Greyhound Association show employment in

the greyhound breeding industry has been constant.

No comparable information is available for employment in the horse breeding industry.

Texas Breeding Industry

Nationally, according to American Quarter Horse Association surveys, expenditures for quarter horse health, nutrition and grooming products, and equipment increased slightly since 1989. Similar information relating to Texas bred quarter horses and thoroughbreds is unavailable.

Currently, a study of the horse industry and its role in the Texas economy is being conducted at Texas A&M University, supported by the Texas A&M University Institute for Equine Science and Technology and the Texas Equine Research Account Advisory Committee. Results of this study are scheduled to be released in late October 1994.

Revenues to State and Local Governments

Like most other states with pari-mutuel wagering, Texas collects a state pari-mutuel tax. In addition, local governments are allowed to collect a tax on track admission fees at 15 cents per ticket.

The state tax is based on the handle, or total amount bet. The tax rate originally was five percent

of the handle for horse racing and six percent of the handle for greyhound racing. In 1991, the tax rate was reduced and changed to an escalating scale based on the amount of the handle. The chart, *Current Pari-Mutuel Tax Rates*, describes the tax structure on horse and greyhound handle.

Current Pari-mutuel Tax Rates

Handle	Horse Tax Rate	Greyhound Tax Rate
\$100 million	1%	2%
\$100 - 200 million	2%	3%
\$200 - 300 million	3%	4%
\$300 - 400 million	4%	5%
\$400 million and more	5%	

The tax is assessed on each track's annual handle. As a track's handle exceeds each threshold, the track pays the higher tax rate on the portion of the handle that exceeds the threshold.

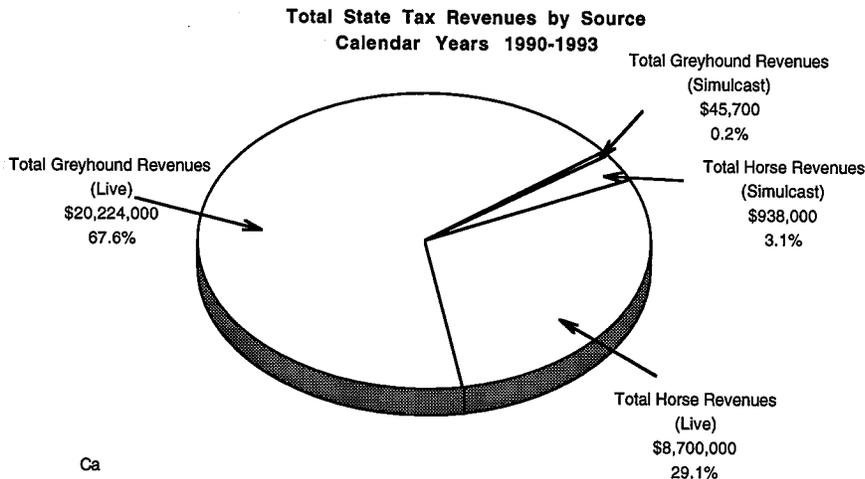
Only two tracks, Trinity Meadows and Gulf Greyhound, have paid more than the minimum tax rate. For calendar year 1993, Trinity Meadows' handle was about \$118 million and Gulf Greyhound's handle was about \$268 million.

From 1989, when the first race-track — G. Rollie White Downs — opened, through the end of 1993, the state's gross pari-mutuel

tax revenue totalled about \$30 million for those calendar years. The graph, *Total State Tax Revenue by Source—Calendar Years 1990-1993*, shows the contribution to state tax revenue from horse and greyhound racing.

In addition to state revenue, local governments also receive revenue from pari-mutuel racing. Twelve local governments have imposed the 15 cents per ticket tax on admissions. As of August 1994, these 12 local governments have collected about \$4.9 million in tax revenue. The chart, *Local Government Admissions Tax Revenue*,

Local Government Admissions Tax Revenue 1990 - 1994	
Bandera	\$136,631
Bandera County	\$136,631
Corpus Christi	\$403,996
Nueces County	\$403,996
La Marque	\$1,446,390
Galveston County	\$1,446,390
Harris County	\$46,383
Willow Park	\$290,406
Parker County	\$290,406
Tarrant County	\$32,538
Harlingen	\$129,749
Cameron County	\$142,219
Total Revenue	\$4,905,735



All forms of gambling compete with other types of entertainment for Texans' discretionary spending dollars.

shows how much revenue each of the local governments has collected.

Other Gambling in Texas

In addition to pari-mutuel wagering, Texas has two other forms of legalized gambling: the state lottery and charitable bingo.

These three forms of gambling as well as other types of entertainment compete for Texans' discretionary spending dollars.

State Lottery

The Texas lottery was legalized in 1991 and became an immediate success.

As one of the 36 states that had a state lottery in 1993, including the District of Columbia, Texas ranked fourth in total sales and third in sales increase between 1992 and 1993.

In fiscal year 1993, the total amount wagered on horse and greyhound racing was about one-quarter of gross lottery ticket sales.

Texas racetracks identify competition from the state lottery as one of the reasons they have failed to generate the projected revenues. They indicate competition with the lottery for gambling dollars is putting at least some racetracks in danger of stagnation or collapse. Actual attendance at racetracks and the amount of pari-mutuel wagering dropped dramatically below

projections after the lottery began selling tickets, slowing the growth in pari-mutuel wagering and attendance at racetracks.

Charitable Bingo

Bingo for charities and other non-profit organizations was legalized by the Legislature in 1981. In fiscal year 1993, gross receipts for charitable bingo were about \$660 million and about \$51 million was available for use by the charities and non-profits. The pari-mutuel industry has not regarded charitable bingo as a major threat to its industry.

Aside from current competition with the state lottery and charitable bingo, racing may also face new competition from video lottery (video slot machines), casino-type gambling, and federally authorized Indian gaming.

During the past several sessions, the Texas Legislature has considered several efforts to expand the types of gambling at Texas racetracks and to legalize other forms of gambling in Texas.

Video Lottery

In 1993, legislation was introduced to allow installation of video lottery machines at racetracks. These machines operate like slot machines.

Proponents of video lottery said that legalizing these machines

would increase state revenue and spur economic activity at the racetracks.

Opponents said such machines would change the racetracks into casino-like gambling parlors and would compound problem gambling.

The 1993 legislation authorizing video lottery games at racetracks failed. Three bills were introduced and all three died in committee.

Legislation legalizing video lottery games is expected to be introduced in 1995 during the 74th Legislature.

Casino Gambling

In 1993, the 73rd Legislature also considered whether to legalize casino gambling on riverboats and regulate ocean-going vessels that offer gambling.

H.B. 2151 by Representatives Debra Danburg, Ken Yarbrough, Mike Martin, and Patricia Gray would have allowed riverboat gambling on or near the Texas Gulf Coast in rivers, lakes, and other inland waterways. The bill died in committee, as did a similar measure, SB 597 by Senator Rodney Ellis.

Bills regulating ocean-going casino ships died without committee hearings.

The Texas Attorney General has issued an opinion stating that legalization of slot machines and other types of casino gambling involving games of chance would require a state constitutional amendment approved by Texas voters.

Indian Gaming

The Tigua Indian tribe in the El Paso area has also been pushing the state to allow them to operate casinos in Texas. During the 73rd Legislature, Representative Brian McCall of Plano introduced legislation that would have authorized the Governor to negotiate a state-tribe gaming compact with Texas Indian tribes for gambling restricted to Indian lands. The bill died in committee without receiving a public hearing. Under the federal Indian Gaming Regulatory Act (IGRA), tribes can be authorized to operate gaming establishments on their reservation. The federal act does not require state approval if a state already allows similar types of gambling in other parts of the state.

Casino gambling,
Indian gambling
and video lottery
machines all
could affect pari-
mutuel in the
future.



BACKGROUND

Creation and Powers

In 1986, the 69th Legislature passed the Texas Racing Act to allow pari-mutuel wagering on horse and greyhound races in Texas, with approval by the voters in a statewide referendum. The voters approved pari-mutuel racing in November 1987. The Act created the Texas Racing Commission (TxRC) to regulate pari-mutuel racing and to encourage the economic and agricultural development effects of racing.

The Act set the state pari-mutuel tax rate at five percent of all money wagered at horse tracks and six percent at greyhound tracks. It also required licensure for both racetracks and persons involved with pari-mutuel racing, set minimum betting age, prohibited wagering by telephone or on credit, and made race animals and licensees subject to drug testing.

TxRC was granted law enforcement powers including the authority to award and suspend licenses and assess fines for violations of the Act or rules of the Commission.

Since its creation in 1986, TxRC has been responsible for:

- licensing racetracks and super-

vising every horse or greyhound race involving bets on the results;

- adopting rules and procedures for racing conduct;
- regulating and supervising everyone except patrons at each racetrack; and
- processing complaints and disciplining violators of the Racing Act or the Commission's rules.

Today, Texas is one of 44 states and the District of Columbia with legal pari-mutuel wagering. All of these states have created a government entity to regulate the industry.

The Legislature revised the Racing Act in 1991, lowering the state pari-mutuel tax and authorizing simulcast races televised from other locations, subject to Commission rules.

Policymaking Structure

The Texas Racing Commission consists of eight members: six are appointed by the Governor with the advice and consent of the Senate, and two are *ex officio* members — the chair of the Texas Public Safety Commission and the Comptroller of Public Accounts.

Texas voters approved pari-mutuel racing in November 1987.

The chair of the Texas Public Safety Commission and the Comptroller of Public Accounts serve as voting, *ex officio* members of the Commission.

Among the six appointed members, two must be licensed veterinarians, one specializing in the treatment of large animals and one in small animals. Two of the four other members must have horse racing knowledge or experience and the other two must have greyhound racing knowledge or experience.

These members, along with the large-animal veterinarian for horses and the small-animal veterinarian for greyhounds, comprise the two separate sections of the Commission. The two *ex officio* members sit on both sections. The six appointed members serve staggered six-year terms.

This structure divides the Commission into three decision-making bodies. On matters that apply to both horse and greyhound racing, the Commission acts as a single body. On matters relating primarily to horse or greyhound racing but not to each other, the Commission acts as two separate bodies.

The Act requires the Governor to designate the chair of the Commission. The Commission has adopted a rule for electing the vice-chair from the section of which the chair is not a member.

The Commission is required to hold at least six meetings a year. On average, the full Commission meets nine times a year, with each panel having an additional separate

meeting. There were seven full Commission meetings in fiscal year 1993, with two meetings exclusively for the horse panel and no meetings of the greyhound panel.

Funding and Organization

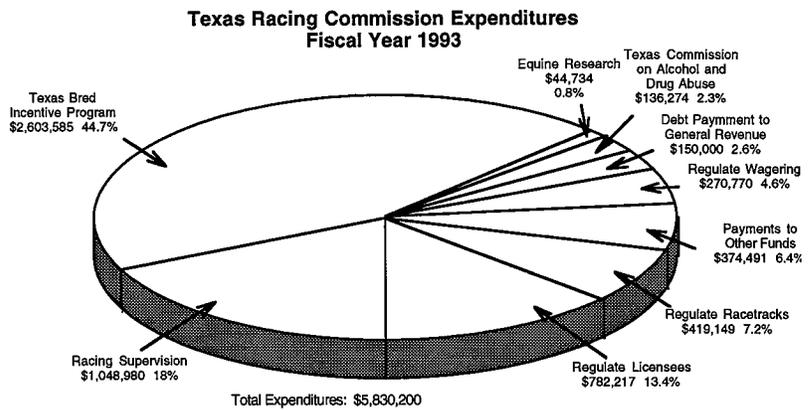
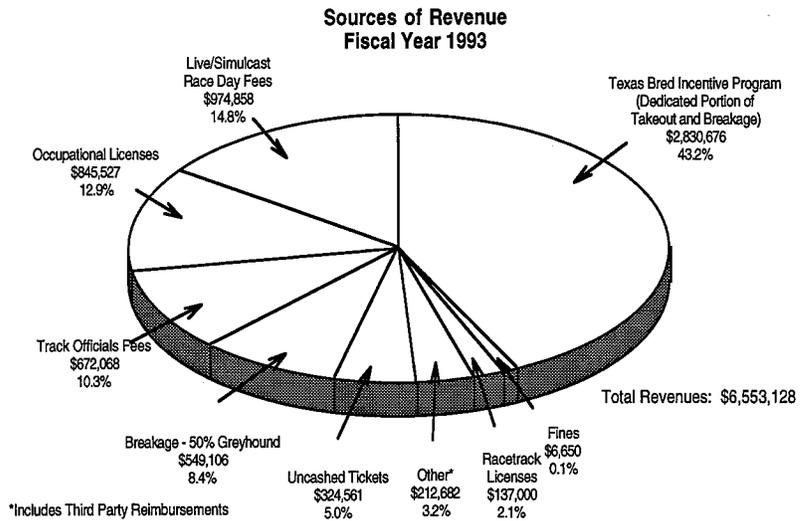
TxRC is primarily funded by fees assessed on racetracks and occupational licensees. Because the Legislature intended racing regulation to both support itself financially and to generate state revenue, TxRC sets application, license, race day, and track officials' fees for racetracks at levels to cover its costs.

Another major source of funding for TxRC comes from 50 percent of the "breakage" obtained from the money bet on greyhound races. Breakage is the amount left over after payoffs to winning ticket holders are rounded down to the nearest dime. Revenue from uncashed winning tickets at horse and greyhound tracks, called "outs," pays for animal drug testing at the tracks.

TxRC also collects money from wagering at the tracks to pass on to breed registries for the promotion of Texas-bred race animals. All of the agency's revenues are deposited into the Texas Racing Fund. The graph, *Sources of Revenue—Fiscal Year 1993*, displays this information.

TxRC implemented its five planning strategies with an annual budget of about \$5.1 million. Of this \$5.1 million, about \$2.6 million in pass-through funds is distributed through the Texas Bred Incentive Program. In addition, about \$705,500 was transferred from racing revenues to the Equine Research Account Advisory Committee, the Texas Commission on Alcohol and Drug Abuse, and general revenue fund. The graph, *Texas Racing Commission Expenditures—Fiscal Year 1993*, shows a breakdown of the agency's expenditures for each strategy. The chart, *Purchases from HUBs—Fiscal Year 1993*, shows participation of historically underutilized businesses (HUBs) in TxRC's contracts for goods and services in 1993.

Although TxRC was intended to be self-supporting, the Legislature appropriated about \$8 million in general revenue funds to get the agency started. TxRC must reimburse general revenue for this start-up money, plus accrued interest. The chart, *Texas Racing Commission, General Revenue*



Payback, shows TxRC's schedule of payments and the remaining balances through fiscal year 1994.

TxRC was staffed with 53 full-time equivalent employees in fiscal year 1993. The agency's central office in Austin housed

Purchases from HUBs Fiscal Year 1993	
Contracts for goods and services	\$ 9,974
Percentage of contracts awarded to HUBs	1.7%
State Goal - Minimum percentage of agency contracts to be awarded to HUBs	30%

Texas Racing Commission, General Revenue Payback							
Fiscal Year	Amount General Revenue Appropriated	Amount General Revenue Expended	Interest Rate	Interest Accrued	Amount Paid		Remaining Balance
					Principle	Interest	
88 TxRC	\$750,000	\$498,438	12%	\$25,206	\$0		\$445,307
88 DPS	\$500,000	\$199,230	12%				
89 TxRC	\$750,000	\$1,409,165	12%	\$246,708	\$420,101	\$78,337	\$3,465,172
89 DPS	\$2,500,000	\$1,862,430	12%				
90	\$3,031,228	\$2,247,022	12%	\$527,412	0	0	\$6,292,737
91	\$2,490,470	\$2,548,808	12%	\$815,162	0	0	\$9,656,707
92	0	0	12%	\$968,091	0	\$150,000	\$10,474,798
93	0	0	12%	\$968,091	0	\$150,000	\$11,292,889
94	0	0	6.75%	\$544,551	0	\$2,000,000	\$9,837,440

23 employees while the remaining 30 employees staffed the agency's field offices at the racetracks.

The central office supervises and coordinates the activities at and among the racetracks, maintains a database of licensing, regulation and wagering activities, and

performs day-to-day administrative activities.

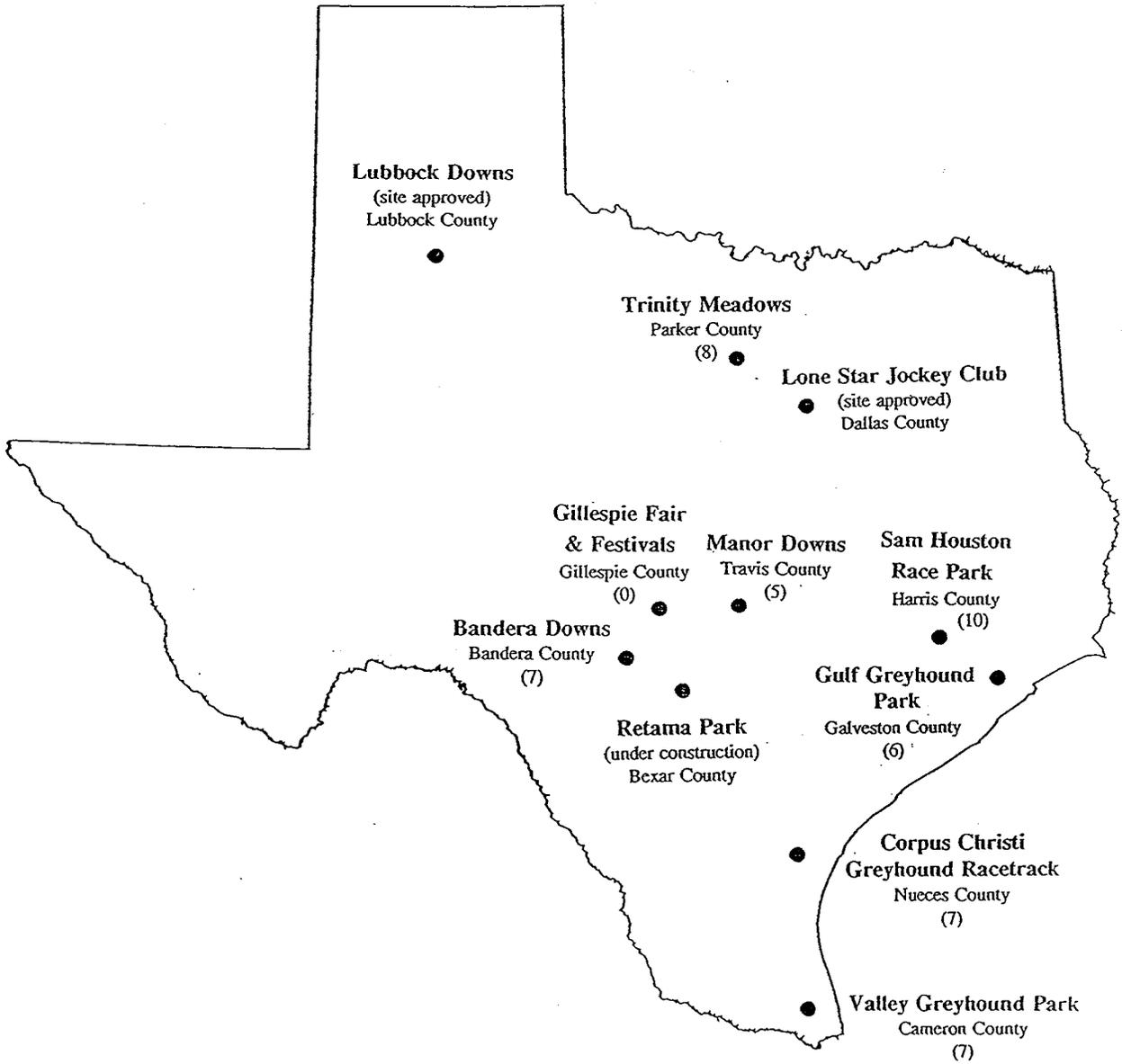
The staff in the seven permanent TxRC field offices perform on-site licensing, monitoring, and enforcement functions at each of the racetracks. Field offices are located at all tracks except at the Gillespie County Fair. The map, *Pari-Mutuel Racetracks*, shows the location of the TxRC field offices and the number of staff assigned to each one.

Texas Racing Commission Equal Employment Opportunity Statistics - 1994

Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	State Goal	Agency	State Goal	Agency	State Goal
Officials/Administration	7	0	5%	0	8%	57%	26%
Professional	38	0	7%	5.30%	7%	21%	44%
Technical	3	0	13%	0	14%	67%	41%
Protective Services	NA		13%		18%		15%
Para-Professionals	NA		25%		30%		55%
Administrative Support	26	12%	16%	19%	17%	81%	84%
Skilled Craft	NA		11%		20%		8%
Service/Maintenance	NA		19%		32%		27%

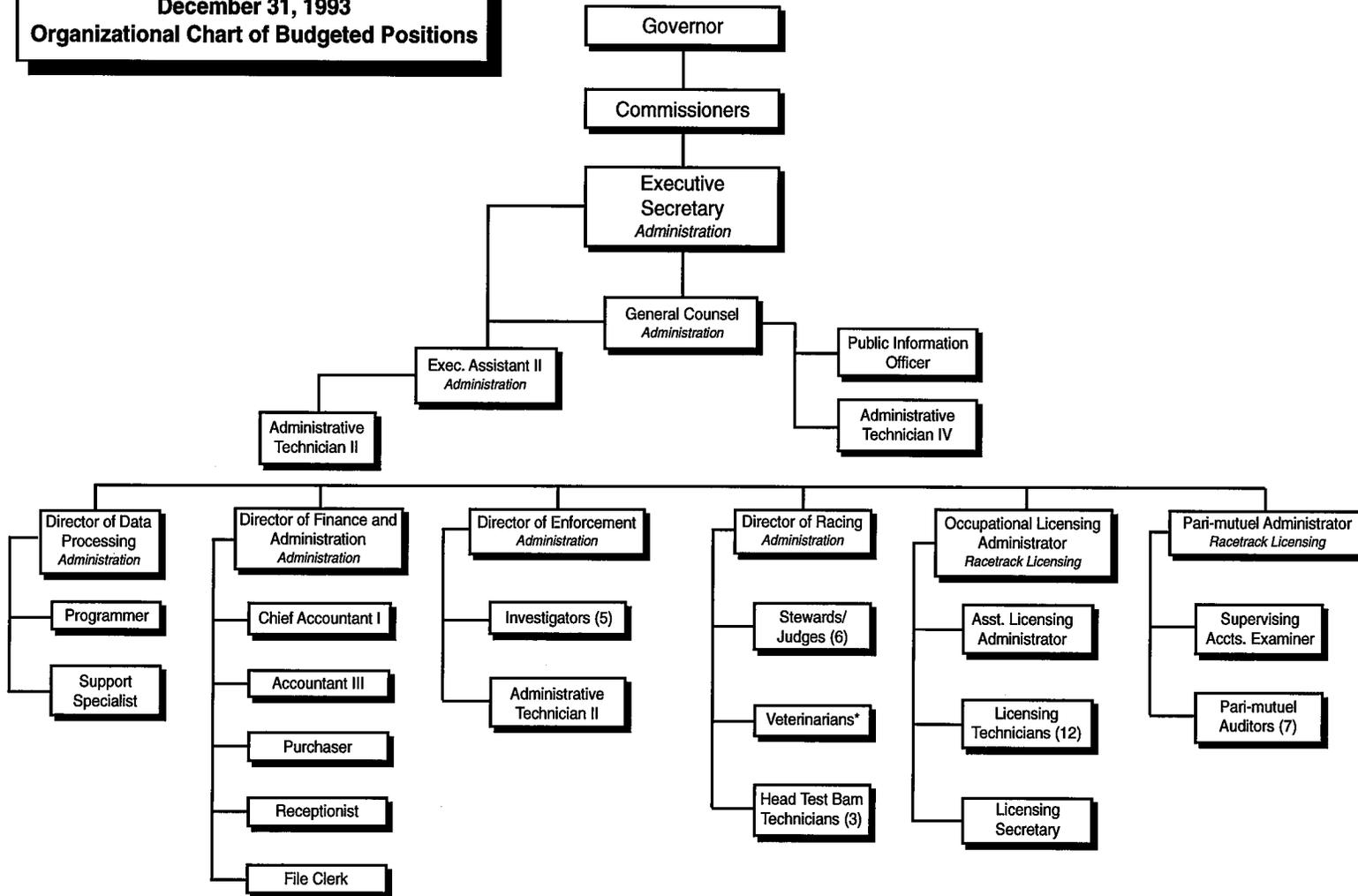
The organizational structure and allocation of staff among the agency's divisions is illustrated in the chart, *Texas Racing Commission Organizational Chart of Budgeted Positions*. A comparison of the agency's work force composition to the state's minority work force goals is shown in the chart, *Texas Racing Commission Equal*

Pari-Mutuel Racetracks of Texas



() indicates the number of TxRC staff at racetrack field offices

**Texas Racing Commission
December 31, 1993
Organizational Chart of Budgeted Positions**



*Veterinarians were contract labor in FY '93. On 10/1/93, they were made employees to comply with IRS regulations. On 12/31/93, there were 12 veterinarians on staff.

Employment Opportunity Statistics, for fiscal year 1994.

STRATEGIC PLANNING

In 1991, Texas incorporated a strategic planning and budgeting system into its legislative appropriations process. The intent of strategic planning is to move from short-term crisis intervention to long-term goal setting, allocate funds by priority, and improve agency accountability. The strategic plan focuses the budgetary process on results rather than efforts.

In Texas, each agency's strategic plan states its mission, goals, objectives, and strategies. The agency's strategies describe the actual activities through which the agency accomplishes its goals. Strategies also serve as the basic funding element in performance-based budgeting in which agencies request and receive appropriations to implement specified strategies. Performance measures monitor each agency's progress toward achieving its goals and objectives by comparing the agency's projected performance with its actual performance.

TxRC has two strategic planning goals that match the agency's major functions: regulating racetracks and occupational licensees. To accomplish these goals, TxRC has five strategies that coincide with its major

programs. The agency regulates racetracks through three major program strategies:

- overseeing racetrack operations;
- regulating pari-mutuel wagering; and
- supervising the Texas Bred Incentive Program.

TxRC principally regulates occupational licensees through two program strategies:

- enforcing racing laws and rules against occupational licensees; and
- ensuring race animals are free of prohibited drugs and other substances.

These program strategies are discussed in the following section.

Overseeing Racetrack Operations

TxRC works to ensure the integrity of racetrack operations by licensing only reputable persons to own and operate a racetrack. Racetrack license applications require detailed personal and financial information about potential track owners and operators. The agency's enforcement investigators work with the Texas Department of Public Safety to discover any criminal histories of applicants.

TxRC also reviews all contractors with whom the racetrack wants to do business, so that organized

TxRC has two strategic planning goals that match the agency's major functions: regulating racetracks and occupational licensees.

crime does not infiltrate a track's operations. The agency must also approve all contracts the track enters into, even after a racetrack license is issued. Overseeing racetracks also entails responding to patrons' complaints about the facilities' operations. In fiscal year 1993, the agency responded to 114 such complaints.

Regulating Pari-mutuel Wagering

Pari-mutuel wagering drives the Texas racing industry. Racetracks, race participants, and owners of Texas race animals all depend on the money bet at the track. If winning bettors do not receive prompt and accurate payment, they lose trust in pari-mutuel wagering and the racing industry loses its mainstay. To help ensure the integrity of the wagering system, TxRC's pari-mutuel division regulates wagering at Texas racetracks. The division certifies the accuracy of the computer that keeps track of the bets and calculates the payoffs, called the totalisator machine. The agency's pari-mutuel auditors monitor the transactions handled by pari-mutuel tellers, who take the bets, and the cashiers, who pay them off.

In addition, pari-mutuel auditors keep track of uncashed winning tickets—"outs"—the proceeds from which are primarily used to cover the costs of drug testing race animals, verify purse accounts to make sure winning entries get

correct awards and work with TxRC investigators to prevent illegal wagering at the track. The agency investigated 17 reports of illegal wagering in fiscal year 1993, disciplining or excluding five persons for such violations.

Supervising the Texas Bred Incentive Program

The Texas Bred Incentive Program encourages the breeding of Texas race animals by supplementing purses won by race animals bred in Texas and offering special events called stakes races in which only Texas-bred animals run. The Texas-bred purse supplements are funded by breakage monies—the amount left over after payoffs to winning ticket holders are rounded down to the nearest dime. Awards for Texas-bred stakes races are funded by a portion of special wagers known as exotics—bets placed on combinations of horses or greyhounds to finish in a certain order.

Breed registry organizations receive the breakage money from TxRC. Racetracks retain the portion of exotic wagers for the Texas-bred stakes races until those races are run. The breed registries distribute the purse supplements to owners and breeders of Texas-bred horses that have finished in the top three places of a race. For greyhounds, only the owner of the winning dog receives the incentive award. The pari-mutuel division

audits the stakes-award accounts maintained by the racetracks.

In fiscal year 1993, two breed registries contracted for independent audits of their operations and provided them to the agency.

Enforcing Racing Laws and Rules Against Occupational Licensees

TxRC licenses all racing participants, including jockeys, pari-mutuel tellers, concession workers, stable workers, and track security personnel. Occupational licensees must undergo fingerprinting and criminal history investigations. Once licensed, a person becomes subject to investigations and disciplinary actions for violating the Racing Act or TxRC's rules. Such violations may include a jockey's interfering with the running of a race or a pari-mutuel teller's taking bets after a race has started.

In such events, a board of racetrack officials—called stewards at horse tracks and racing judges at greyhound tracks—conducts hearings to determine whether an administrative fine or license suspension is appropriate. In fiscal year 1993, the boards of stewards and judges conducted 596 disciplinary hearings and issued 804 rulings against occupational licensees, suspending 293 occupational licenses. Stewards and judges conducted fewer

hearings than expected in 1993 because many occupational licensees waived their right to a hearing and accepted the racing officials' decisions.

Ensuring Race Animals Are Free of Prohibited Drugs and Other Substances

Occupational licensees who are responsible for the race animals may be tempted to drug a horse or greyhound to give it a competitive edge. Trainers and kennel operators licensed by TxRC are the absolute insurers of an animal's condition. As a result, they are subject to disciplinary action when a horse or greyhound turns up with prohibited substances in its system. At each track, TxRC-employed veterinarians supervise the collection of blood or urine samples from race animals. TxRC generally tests the winners and other animals selected by the stewards or judges. The agency's enforcement investigators then oversee delivery of the samples to the sanctioned testing lab at Texas A&M University.

Where prohibited drugs or higher-than-allowed levels of legal medications are detected, the board of stewards or judges considers whether to take disciplinary action against the responsible occupational licensee. TxRC's veterinarians also decide whether race animals are healthy enough to compete or may be

TxRC licenses racetrack facilities and issues occupational licenses to all persons that work at a track.

administered sanctioned medications.

In fiscal year 1993, 105 out of 22,966 greyhounds and 50 out of 9,326 horses tested positive for unauthorized substances.



BACKGROUND

CREATION AND POWERS

Since early settlement, horses have been part of the Texas identity—used for ranching, rodeos, racing, recreation, medicine, and competitive sports. Interest in horse racing increased with the return of pari-mutuel wagering in 1986-87. The expected expansion of the horse racing industry also brought a greater desire for equine research, especially in areas such as economics, physiology, health, nutrition, science, and technology.

In 1991, the 72nd Legislature passed a major revision of the Texas Racing Act. House Bill 2263 included many significant changes to racing laws that are discussed earlier in this report. This bill also dedicated a small portion of wagers made at horse tracks to fund the Equine Research Account and created an advisory committee advise decide how the money should best be spent.

The Equine Research Account Advisory Committee (ERAAC) reviews research proposals, recommends grant awards, and helps plan an annual conference on equine research. The Director of the Texas Agricultural Experiment Station (TAES) at Texas A&M

University System manages the Equine Research Account and provides administrative support to the Advisory Committee.

Texas horse breeder associations proposed the creation of the Equine Research Account and ERAAC because equine research had been sporadic and small-scale due to limited funding. The account and the Advisory Committee help address the information needs of the equine breeding and racing industries.

POLICYMAKING STRUCTURE

The Director of TAES is responsible for final decisions on grant awards and administration of the program. The Director also appoints members of the Advisory Committee.

ERAAC is composed of 11 members representing both academia and the industry. The Advisory Committee advises and helps the Director by determining the needs and priorities of the horse racing industry and reviewing research proposals. The box, *Statutory Requirements for the Composition of ERAAC and Current Committee Members*, outlines the appointment requirements of the Advisory Committee and its current membership.

The Equine Research Account Advisory Committee reviews research proposals, recommends grant awards, and helps plan an annual conference on equine research.

Advisory Committee members serve two-year, staggered terms. ERAAC elects its officers and meets in May and October. Members serve without reimbursement or compensation.

FUNDING AND ORGANIZATION

Funding for the Equine Research Account comes from money wagered on pari-mutuel horse racing. The box, *Pari-Mutuel Definitions*, defines some common terms. Pari-mutuel wagering accommodates various types of bets on the same race. The money for each type of bet is combined into a wagering pool. The chart, *Equine Research Account Sources of Funding*, depicts the revenue flow from pari-mutuel wagering

Pari-Mutuel Definitions

Racing Terms

Breakage	Money left over when bets are rounded down to the nearest dime.
Pool	The total amount of money bet for each type of wager such as Win, Place, Show and the exotics for a race.

Types of Wagers

WIN	The Win payoff is collected when the bettor's selection is the first to finish the race.
PLACE	The Place payoff is collected when the bettor's selection finishes either first or second.
SHOW	The Show payoff is collected when the bettor's selection finishes first, second or third.
Exotic	Bets other than Win, Place or Show, such as Quinellas, Exactas, and Trifectas.
• Quinella	A Quinella payoff is collected when the bettor picks the first two finishers of a single race in either order.
• Exacta	An Exacta payoff is collected when the bettor picks the first two finishers of a single race in their exact order.
• Straight Trifecta	A Trifecta payoff is collected when the bettor picks the first three finishers of a single race in their exact order.

Statutory Requirements for the Composition of ERAAC and Current Committee Members

11 Members Appointed by the Director of Texas Agricultural Experiment Station

- Two members must be a part of the Institute for Equine Science and Technology and faculty of the College of Agriculture and Life Sciences at Texas A&M University:
 - Dr. Gary Potter, Dr. Lonnie Jones: Texas A&M University
- Two members must be a part of the Institute for Equine Science and Technology and faculty of the College of Veterinary Medicine at Texas A&M University:
 - Dr. David Hood, Dr. Jeffrey Watkins: Texas A&M University
- Two members must be affiliated with research organizations that have equine research capabilities:
 - Dr. Les Waymack, Tarleton State University
 - Dr. Lowell Schake, Texas Tech University
- Five members must have demonstrated an interest in the horse racing and breeding industries in Texas. By law, the director selects these five representatives from a list of names supplied by five horse breeding associations. The breed associations and the members nominated by them are shown below:
 - Texas Thoroughbred Breeders Association — Dr. Nat Kieffer, College Station
 - Texas Quarter Horse Association — Dr. Charles Graham, Elgin
 - Texas Paint Horse Breeders Association — Lex Smurthwaite, Fort Worth
 - Texas Appaloosa Horse Club, Inc. — Pete Navarro, Fulshear
 - Texas Arabian Breeders Association — Dr. Steven Tomasovic, Magnolia

into the account. One percent of the exotic wagering pool is dedicated to supporting the horse breeding and racing industry. Two percent of these dedicated funds are placed in the Equine Research Account. The account also receives two percent of the horse racing breakage.

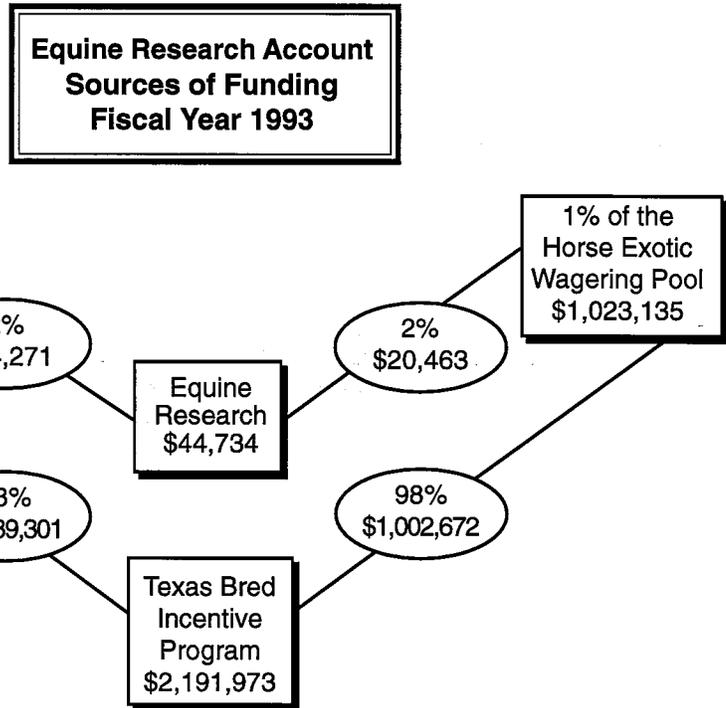
The total amount of revenue generated is provided in the chart, *Equine Research Account Revenue: FY 1992-1994*.

ERAAC delayed the disbursements of grant money until fiscal year 1994 to allow the account to accumulate sufficient resources to fund research projects.

Expenditures from the account are used for three purposes: research grants, annual conference expenses, and peer review.

In fiscal year 1994, ERAAC recommended, and the Committee's Director approved, five research grants totaling \$92,198. These projects, their first-year grant awards, and grantees are listed in the box, *Funded Equine Research Projects*.

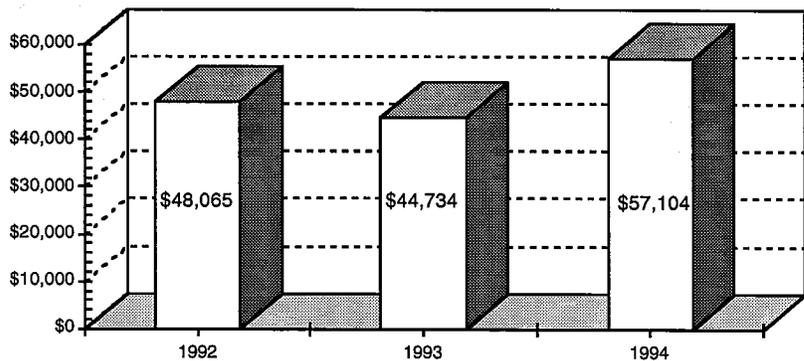
The second major expenditure, \$6,500, was for the First Annual Race Horse Conference, held in January 1994. The conference brought together academic researchers and members of the



racing industry to discuss equine research projects and problems in the horse racing industry.

ERAAC also allocated a small percentage of the account (\$910) for honoraria to a six-member peer review committee. Each reviewer

Equine Research Account Revenue Fiscal Year 1992 - 1994



As of September 1, 1994

received approximately \$10 to review each of the 15 research proposals submitted. These reviewers are experts in equine racing and breeding research from Louisiana State University, Ohio State University, Tufts University, and the Universities of Louisville, Florida and Kentucky.

The statute does not authorize the account to be used for administrative program costs. Instead, TAES absorbs the costs of the program within its administrative budget because of the benefits the university receives from the program. The TAES staff estimates that they spend about nine hours per month on the Equine Research Account.

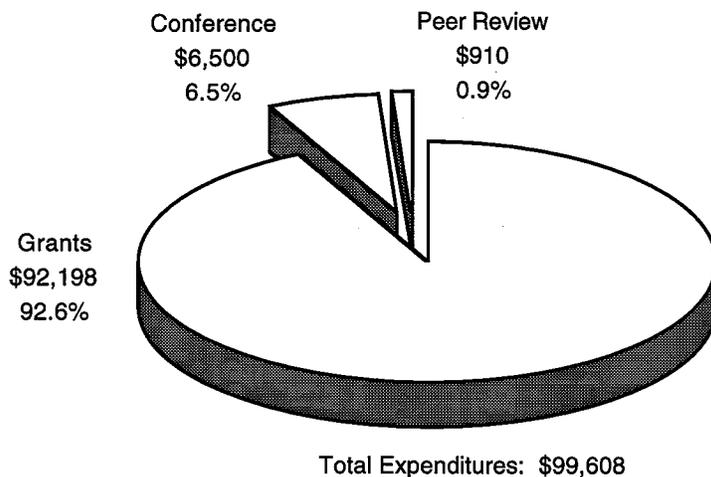
<i>Funded Equine Research Projects</i>	
An Economic Analysis of Texas Horse Racing in an Evolving Gaming Industry by Dr. Lonnie Jones	\$21,515
Immunobiology of the Race Horse by Melissa Hower	\$5,500
Digital Hemodynamics in the Performing Race Horse by Dr. David Hood	\$21,595
Mineral Balance and the Bone Remodeling Process in Young Horses During Training by Dr. Gary Potter	\$21,794
An Epidemiologic Study of Musculoskeletal Injuries in Racing Thoroughbred Horses by Dr. Noah Cohen	\$21,794

Since its creation, the Equine Research Account has received \$149,903 in total revenue. Expenditures have totaled \$99,608 as shown in the chart, *Equine Research Account Expenditures: Fiscal Year 1994*.

PROGRAMS AND FUNCTIONS

The primary function of ERAAC is to recommend funding for equine research projects. This research investigates health, nutrition, breeding and economic issues of the equine racing industry.

**Equine Research Account Expenditures
Fiscal Year 1994**



The Advisory Committee focuses grants on research that addresses one or more of the major priorities in the horse racing and breeding industries each year. This year's priority topics include:

- reproductive physiology;
- economics;
- musculoskeletal injuries;
- infectious respiratory diseases;
- genetics;
- acute fatigue.

Applicants for research grants must be affiliated with an institution of higher education. Proposals must name a principal investigator, preferably a full-time faculty member at an academic institution, to lead the research project team.

State law requires the Director to publish an annual report on equine research projects and send a copy to the Texas Racing Commission and the members of the Advisory Committee.

Review Process for Funding Proposals

The grant application process involves several steps before a grant may be funded: a request for proposals is distributed to all universities in Texas with capacity for equine research; applicants submit proposals to the Director; research proposals are sent to the peer review panel; ERAAC reviews the proposals and makes funding recommendations; the Director makes the final award and funding begins.

Grant awards have the following restrictions:

- grants may be used for direct costs only;
- grants may not be used to replace funds that would have been received from another source;

- grants may not be used to defray primary operating costs of an institution.

Annual Conference on Equine Research

In addition to funding research, ERAAC helps the Texas Agricultural Extension Service sponsor an annual conference on equine research.

The First Annual Race Horse Conference was held in Austin on January 15, 1994. More than 700 people attended the conference, according to the Advisory Committee.

ERAAC and the Texas Thoroughbred Breeders Association helped plan the conference. The day's events included explanations of the Equine Research Account and Advisory Committee, announcement of the research projects funded, and presentations on issues concerning the horse racing and breeding industries. Faculty of Texas A&M University, including members of the Institute for Equine Science and Technology, and industry representatives presented topics on issues such as technological advancements in the horse industry, nutrition, the impact of gaming, and musculoskeletal injuries.

ISSUE 1



REMOVE POTENTIAL CONFLICTS OF INTEREST FROM THE EQUINE RESEARCH ACCOUNT ADVISORY COMMITTEE PROCESS.

BACKGROUND

The Equine Research Account Advisory Committee (ERAAC) was created in 1991 to investigate health, nutrition, breeding and economic issues of the equine racing industry. ERAAC funded its first projects in January 1994. Five projects were selected for funding at that time out of a total of 15 projects submitted for consideration.

The ERAAC grant application process involves several steps. First, research proposals for projects requesting funding are due in September of each year. An academic peer review panel reviews the proposals and provides input on the technical merits of the proposals.

ERAAC members then review the grant proposals for:

- usefulness and impact on the horse racing industry;
- objective of the project;
- experiment design and procedures;
- opinions of the peer review committee;
- past experience of the researchers;
- adequacy of the research facility;
- amount requested; and,
- justification for funding.

The Advisory Committee then ranks the proposals based on these criteria and submits its recommendations for funding to the Director of the Texas Agricultural Experiment Station, who awards the grants.

FINDINGS

▼ **ERAAC members can submit research proposals and include their own proposals in the Advisory Committee's funding recommendations.**

► The statute governing ERAAC does not address the submission of equine research proposals by committee members during their term. ERAAC's bylaws only prohibit Advisory Committee members from ranking their own projects and these members are excluded from the discussion of their own

Three of the five research projects funded in 1994 went to ERAAC members.

proposal. However, no prohibitions exist to keep members from voting on the list of funding recommendations that includes their own research proposal.

▶ Although unable to participate in the ranking of their own proposals, Advisory Committee members rank and make funding recommendations on their competitors' proposals.

▼ **Three ERAAC members voted for a package of recommended proposals that included their own projects.**

▶ Out of the five research proposals recommended for funding in fiscal year 1994, three were submitted by ERAAC members. It should be noted, however, that the statute requires grant recipients to only use the funds for direct expenses of the project.

Funds cannot be used for salaries or other compensation of the grant recipient.

▶ However, having a ERAAC member also receiving funds based on the Advisory Committee's recommendations creates an appearance of unfairness and impropriety because of their ability to discuss and vote on competitors' proposals.

CONCLUSION

The current law governing ERAAC does not prohibit committee members from submitting their own proposals for funding. Although the committee bylaws prohibit ERAAC members from ranking their own proposals, the process does not prohibit them from participating in the ranking of all other proposals or formally recommending a package of proposals that includes their own.

Recommendation

Change in Statute

- **Prohibit members of the Equine Research Account Advisory Committee from participating in the proposal review process if they have also submitted a research proposal.**

This recommendation would prevent ERAAC members from participating and voting on matters in which they have an outside interest. Although the community of persons familiar with equine research is fairly limited, sufficient numbers exist to draw from for ERAAC membership without selecting persons intending to submit their own proposals.

FISCAL IMPACT

The adoption of this recommendation will have no fiscal impact.

ISSUE 2



CONTINUE THE EQUINE RESEARCH ACCOUNT ADVISORY COMMITTEE AND STRENGTHEN CONNECTIONS TO THE TEXAS RACING COMMISSION.

BACKGROUND

In 1991, the Legislature significantly revised state racing laws and dedicated funds for equine research to strengthen the horse breeding and racing industry.

A portion of wagering proceeds is dedicated by law to the Equine Research Account. The Texas Agricultural Experiment Station (TAES) administers the account with advice from the Equine Research Account Advisory Committee (ERAAC).

State law authorizes two uses of the Equine Research Account: funding grants for equine research and sponsoring an annual conference on equine research issues. TAES must publish an annual report on the activities resulting from the use of account funds.

The Director of TAES awards the grants based on the advice of the Equine Research Account Advisory Committee and a peer review committee. While ERAAC advises the Director on the direction of the program and final award of grants, the peer review process provides expertise in specific research areas. Peer

review members, who are appointed by the Director of TAES, are highly specialized experts who review grant proposals on technical merits. Members of ERAAC are also appointed by the Director and serve with no reimbursement.

The 11-member ERAAC includes members of university research programs and representatives of the major horse racing breed registries. The Texas Racing Commission is not represented on ERAAC.

Equine research projects funded through the account must address racing and breeding industry research priorities as determined by the Advisory Committee each year. In addition, grant recipients must be affiliated with an institution of higher education.

In fiscal year 1994, the program reviewed 15 proposals, awarded five grants, and sponsored an annual conference. The five grants awarded totalled \$92,198.

The First Annual Race Horse Conference was held on January 15, 1994, in Austin. The Texas Agricultural Extension Service and ERAAC jointly sponsored the

In fiscal year 1994, the Advisory Committee considered 15 grant proposals and awarded five grants totalling \$92,198.

conference with the help of representatives of the horse racing and breeding industries, Texas Tech University, Tarleton State University, and the Texas A&M University Institute of Equine Science and Technology. The account covered \$6,500 of the cost of the conference.

The Legislature required that ERAAC and the statute authorizing the equine research effort be reviewed through the Sunset review process. Under that Sunset provision, unless continued by the 74th Legislature, ERAAC and the statute establishing the equine research efforts will be abolished September 1, 1995. The Equine Research Account is not subject to abolishment and could continue to grow through dedicated funds. However, no authority would exist to use the funds.

The review examined two primary issues regarding the equine research program--whether the program should be continued and whether the Texas Racing Commission has sufficient input in the use of racing-generated funds for equine research.

FINDINGS

▼ **The functions of the equine research effort and ERAAC appear to be needed and do not duplicate those of other entities.**

► Only one set of research projects has been funded so far, and those projects are not complete. The actual impact of the program, therefore, cannot yet be determined.

► According to research performed at Texas A&M University, Texas has the largest number of horses in the U.S., and the horse breeding industry is a long-standing part of the state's economy. Equine research can provide the industry with technical information important for continued development.

► ERAAC's involvement in funding equine research provides an opportunity for academia and the horse racing industry to work together to focus research efforts on viable and productive research. No other Texas entity provides this forum.

► The annual equine research conferences are an effective and economical way to disseminate research findings to the academic community and horse racing industry. The first conference focused on racing and breeding issues such as technological advancements in the horse industry and nutrition. Future conferences will disseminate find-

ings from funded research projects.

▶ No other entity, public or private, has the composition or responsibilities to direct the funding for racing-related equine research and disseminate the findings of that research. The state's equine research effort and ERAAC have a unique role.

▼ **The benefits of continuing the equine research program and ERAAC outweigh the potential benefits available by abolishing the program and Advisory Committee or transferring the duties to another existing entity.**

▶ While the Higher Education Coordinating Board operates many efforts that evaluate and fund university research grants, none has a horse racing focus. The representatives of major horse racing breed registries on ERAAC provide benefits not available directly through the Board.

▶ The review identified no significant financial benefits of abolishing ERAAC. Advisory Committee members serve without compensation. The Texas Agricultural Experiment Station currently pays the costs for providing

administrative support to the Advisory Committee.

▼ **While the Texas Racing Commission is responsible for overseeing the use of racing revenues in Texas, it has no formal role in the equine research program.**

▶ The Texas Racing Commission (TxRC) is the state's lead agency for horse racing issues. However, the Legislature made no provision to give TxRC input into the use of funds or direction of policy for the Equine Research Account.

▶ State law gives TxRC specific responsibility to oversee the Texas Bred Incentive Program (TBIP). TxRC requires annual financial statements from the breed registries. TBIP funds are a significant portion of the funds dedicated to the Equine Research Account. However TxRC rules do not address the equine research effort.

▼ **No provision exists for expenditure of funds for administrative costs of the account and Advisory Committee.**

▶ The Texas Agriculture Experiment Station pays all costs related to processing paper work, copying, administrative staff time and other

The Texas Racing Commission does not have input into the use of equine research funds.

similar costs. ERAAC is completely dependent on the availability of staff and resources of TAES to perform its duties.

• In comparison, the breed registries are allowed to spend up to 10 percent of Texas Bred Incentive Program funds for administrative costs.

CONCLUSION

The functions of the equine research program and ERAAC appear to be needed and do not duplicate the functions of other entities. The review identified no benefits of abolishing the Advisory Committee or transferring its duties. In addition, the ability of the Texas Racing Commission to oversee the use of Texas racing revenues is limited because it has no formal role in the state's equine research effort.

Recommendations

Changes in Statute

■ **Continue the state's equine research effort and the Equine Research Account Advisory Committee as follows:**

- Continue the equine research efforts and ERAAC for six years;
- Add the Executive Secretary of TxRC to the Advisory Committee;
- Require the Director of the Texas Agricultural Experiment Station to consult at least annually with the Texas Racing Commission concerning the use of the account and the impact of state-funded equine research; and
- Allow ERAAC to expend up to 10 percent of its funds for administrative costs.

Continuing the Advisory Committee should allow the Texas horse racing breeding and industry to benefit from on-going research into improving

racing performance and equine health. The six-year period will allow for a re-evaluation of the program after several sets of research projects have been funded and completed.

Placing the Executive Secretary of TxRC on the Advisory Committee and requiring the Director of the Texas Agricultural Experiment Station to periodically consult with the Texas Racing Commission on the use of the account and the impact of the program will ensure that the perspectives of the state's lead agency for horse racing in Texas influence the direction of equine research. Allowing up to 10 percent of funds for administrative costs reduces ERAAC's dependency on TAES for all administrative services.

FISCAL IMPACT

The adoption of this recommendation will not have a fiscal impact to the state.

Equine Research Account Advisory Committee	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Not Applicable	1. Require at least one-third public membership on state agency policymaking bodies.
Not Applicable	2. Require specific provisions relating to conflicts of interest.
Apply/Modify	3. Prohibit persons required to register as a lobbyist from acting as general counsel to the agency or policymaking body or serving as a member of the policymaking body.
Apply	4. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Apply/Modify	5. Specify grounds for removal of a member of the policymaking body.
Not Applicable	6. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Not Applicable	7. Require the agency to establish career ladders.
Not Applicable	8. Require a system of merit pay based on documented employee performance.
Apply/Modify	9. Provide for notification and information to the public concerning agency activities.
Apply	10. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Not Applicable	11. Require information to be maintained on complaints.
Not Applicable	12. Require that all parties to written complaints be periodically informed in writing as to the status of the complaint.
Not Applicable	13. Require development of an E.E.O. policy.
Apply/Modify	14. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply/Modify	15. Provide for public testimony at meetings of the policymaking body.
Not Applicable	16. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Not Applicable	17. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Not Applicable	18. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Update	19. Require the agency to comply with the state's open meetings law and administrative procedures law.
Not Applicable	20. Require training for members of policymaking bodies.

Equine Research Account Advisory Committee (cont.)	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Not Applicable	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for notice to a person taking an examination of the results of the examination within a reasonable time of the testing date.
Not Applicable	3. Provide an analysis, on request, to individuals failing the examination.
Not Applicable	4. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	5. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Not Applicable	6. Authorize the staggered renewal of licenses.
Not Applicable	7. Authorize agencies to use a full range of penalties.
Not Applicable	8. Specify disciplinary hearing requirements.
Not Applicable	9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	10. Require the policymaking body to adopt a system of continuing education.

TEXAS RACING COMMISSION

**EQUINE RESEARCH ACCOUNT
ADVISORY COMMITTEE**

Report prepared by:

Charla Ann Baker - Project Manager

Ann Blevins

Barbara Hunley

Dan Junell

Susan Kinney

Rachelle Sanchez

Ying Tang

Dawn Volcik

Ken Levine - Project Supervisor

**John P. Moore,
Director**

**Sunset Advisory Commission
P.O. Box 13066
Room E2.002, Capitol Extension
Austin, Texas 78711**

**(512) 463-1300
FAX (512) 463-0705**

